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ENVIRONMENTAL ASSESSMENT BOARD

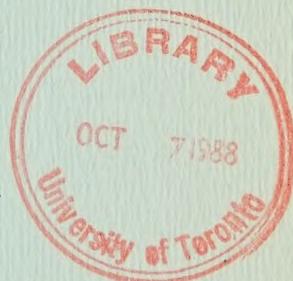
VOLUME: XLIX

DATE: September 26th, 1988

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Monday, September 26th,
1988, commencing at 1:00 p.m.

VOLUME XLIX

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

(i)

A P P E A R A N C E S

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MR. P.D. McCUTCHEON	GEORGE NIXON

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APPEARANCES: (Cont'd)

MR. C. BRUNETTA

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I N D E X O F P R O C E E D I N G S

Witness:

<u>JOHN R.E. KENRICK,</u>	
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238	Copy of COSEWIC complete list of endangered species in Canada.	8312
239	Document prepared by Canadian Wildlife Service entitled: The Importance of Wildlife to Canadians.	8316
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1 ---Upon commencing at 1:10 p.m.

2 THE CHAIRMAN: Good afternoon everyone.

3 Please be seated.

4 MR. FREIDIN: I would like to welcome the
5 Board to our side of the room.

6 THE CHAIRMAN: That's right, we have had
7 a shift to the right, from our perspective.

8 MR. FREIDIN: Mr. Martel doesn't look
9 very good to me.

10 MR. MARTEL: I feel comfortable now.

11 THE CHAIRMAN: Mr. Martel being on the
12 left, of course.

13 MR. CASTRILLI: It doesn't look like Mr.
14 Martel's seat has actually moved any.

15 MR. MARTEL: Some of us just moved
16 further right.

17 THE CHAIRMAN: Well, Mr. Castrilli, we
18 are back to you, unless there is anything by way of a
19 preliminary nature to take care of.

20 (No response)

21 THE CHAIRMAN: Very well.

22 JOHN E. KENRICK,
23 M. MELVIN. CRYSTAL. Resumed

24 CONTINUED CROSS-EXAMINATION BY MR. CASTRILLI:

25 Q. Mr. Kenrick, I would like to continue

1 from where we left off last time. We were talking at
2 some point on the 16th of September about rare plants,
3 rare plant species, as you recall, and I am wondering
4 if you could advise the Board whether the Ministry of
5 Natural Resources has a schedule for producing reports
6 on the status of rare plants in Ontario or in the area
7 of the undertaking?

8 MR. KENRICK: A. Not that I am aware of.

9 Q. Does it have a budget for doing so?

10 A. The non-game species portion of the
11 wildlife program addresses those kinds of things, but I
12 am not sure specifically how much of their budget would
13 be directed at plants, for instance.

14 They have a program and there are, from
15 time to time, status reports done usually under the
16 sponsorship of the COSEWIC organization. I am not sure
17 if there is a schedule.

18 Q. Is that something I could ask you to
19 take under advisement and determine and also what the
20 budget would be on an annual basis for production of
21 status reports by the Ministry on rare plant species,
22 unless you can tell me that there is somebody in Panel
23 7 who does know the answer to that question?

24 MR. FREIDIN: If you can provide that
25 request in writing, I think we will make our efforts to

1 get an answer.

2 MR. CASTRILLI: Well, Mr. Freidin, you
3 will have the transcripts in three days.

4 MR. FREIDIN: Would you repeat then, for
5 the purpose of the record, so I don't misinterpret you,
6 what it is that you want.

7 MR. CASTRILLI: If there is a schedule
8 for the production of reports on rare plant species,
9 what is it on a fiscal year basis and what is the
10 budget for doing so on a fiscal year basis?

11 MR. FREIDIN: Thank you.

12 MR. CASTRILLI: Thank you.

13 Q. Now, Mr. Kenrick, I would like to
14 return you to what is Exhibit 233 which is our
15 interrogatories on Panel 6 and your answers on Panel 6.
16 Looking at Question 9.

17 Mr. Kenrick, I am referring to, in
18 particular, Question 9(c). We asked for provision of
19 copies of all status reports on potentially rare,
20 threatened or endangered species and your answer is
21 found at the bottom of that page and onto the following
22 page.

23 And I guess I wasn't sure whether the 78
24 documents -- or the 78 species that you refer to in
25 your answer were for the area of the undertaking or the

1 province. Can you indicate what your understanding is?

2 MR. KENRICK: A. I believe the 78 is for
3 the province.

4 Q. Would you know whether 78 is
5 co-extensive with the number for the area of the
6 undertaking?

7 A. No.

8 Q. Could I ask you to --

9 A. I don't know.

10 Q. Sorry. Could I ask you to take that
11 under advisement and advise the Board whether the 73
12 status reports that you refer to there are with respect
13 to the area of the undertaking? You have to say yes or
14 no. Sorry, you have to say yes or no.

15 MR. FREIDIN: Perhaps I will just take a
16 moment and I will answer the question.

17 MR. CASTRILLI: You will answer it.

18 MR. FREIDIN: Yes, I will take that under
19 advisement.

20 MR. CASTRILLI: And when you are taking
21 that under advisement, I would like a copy of each of
22 the status reports that relate to species that are in
23 the area of the undertaking?

24 MR. FREIDIN: We will take that
25 advisement as well.

1 MR. CASTRILLI: Well, do I have an
2 undertaking or not?

3 MR. FREIDIN: Yes.

4 MR. CASTRILLI: Thank you.

5 MR. FREIDIN: You have asked whether we
6 would take that under advisement and I am saying we
7 will.

8 MR. CASTRILLI: And now I am asking for
9 an undertaking to provide me with the documents. Will
10 you provide that as well?

11 MR. FREIDIN: Subject to any difficulties
12 which we may experience in producing those documents,
13 we will produce those documents. And, of course, if we
14 have any difficulty, we will advise you, Mr. Castrilli.

15 MR. CASTRILLI: I am sure you will.
16 Thank you.

17 ---Short recess

18 THE CHAIRMAN: Mr. Dadds has gone out to
19 see if he can get to the cause.

20 MR. CASTRILLI: Mr. Chairman, should I
21 risk continuing?

22 THE CHAIRMAN: Please, go ahead.

23 MR. CASTRILLI: Q. Mr. Kenrick, to your
24 knowledge, are there any species on the COSEWIC list
25 that are found in Ontario or, in particular, in the

1 area of the undertaking that do not have a status
2 report?

3 MR. KENRICK: A. My understanding is to
4 get on to the COSEWIC list that there had to be a
5 status report prepared in the first place. I stand to
6 be corrected, but that was my understanding.

7 Q. All right. Is there someone in Panel
8 7 who would know that for certain, or are you the
9 person I should be asking this question to?

10 MR. FREIDIN There will be somebody in 7
11 that can deal with that.

12 MR. CASTRILLI: All right. I am content
13 with that.

14 Q. Mr. Kenrick, can you advise, are
15 there any species that are found in the area of the
16 undertaking that are endangered according to COSEWIC
17 but not recognized as such under Ontario's Endangered
18 Species Act?

19 MR. FREIDIN: I think that perhaps might
20 be the subject matter of an earlier request that you
21 made, Mr. Castrilli, where you wanted some information
22 with respect to the COSEWIC list. I think you showed
23 us the COSEWIC list and asked which ones of those
24 species were in fact within those categories in
25 Ontario.

1 MR. CASTRILLI: Well, I may have asked
2 you, Mr. Freidin, in private. I don't believe I asked
3 it as an interrogatory and I haven't asked that
4 question of this witness in Panel 6.

5 MR. FREIDIN: I guess if we have already
6 done it, we will do it again. Maybe you could just ask
7 the question again.

8 MR. CASTRILLI: Are there any species
9 that are found in Ontario -- or sorry, in the area of
10 the undertaking that are endangered according to
11 COSEWIC but not recognized as such under the Ontario
12 Endangered Species Act?

13 MR. FREIDIN: I am just wondering what
14 the purpose of that information is, Mr. Chairman. The
15 COSEWIC list is a list of rare, threatened, endangered,
16 et cetera Canada-wide and the list basically says these
17 are in that category Canada-wide. In Ontario there may
18 not be in one of those categories.

19 I am just wondering what the purpose of
20 the information is.

21 MR. CASTRILLI: With great respect, this
22 matter has now been dealt with in this panel and is
23 also dealt with in Panel 7 and I want to know now
24 whether this witness is in a position to answer that
25 question.

1 Mr. Freidin and his client have put this
2 matter in issue and I am certainly entitled to raise it

3 THE CHAIRMAN: Can you answer the
4 question, witness?

5 MR. KENRICK: Yes. My information, the
6 source of the list was a rare, threatened, endangered,
7 extirpated and extinct species in Ontario list that was
8 prepared in 1987. There are on that list one fish,
9 aurora trout, aurora char and 4 plants that are
10 endangered on this list, but are not protected under
11 the Endangered Species Act.

12 MR. CASTRILLI: Q. And these are species
13 that are in fact found in Ontario; is that right?

14 MR. KENRICK: A. That's correct.

15 My understanding, the explanation for the
16 difference between the two lists is some of these are
17 under further review right now. The Ministry's
18 position - I am most familiar with and I believe it was
19 the subject of one of the interrogatories - was to do
20 with aurora trout and why it would be on one list and
21 not on the other.

22 Q. Yes. We will be coming to that too.
23 but this last question, as you will note, was a general
24 question.

25 A. Mm-hmm.

1 Q. Now, can you advise the Board why
2 species that are found in Ontario that are considered
3 endangered by COSEWIC are not recognized as such under
4 Ontario's Endangered Species Act?

5 A. I believe there are several reasons.
6 One of them is that having -- my understanding is that
7 the jurisdictions that sit on COSEWIC -- COSEWIC is a
8 recommending body not a legislative one, and Ontario
9 can accept or not accept a recommendation of that
10 committee.

11 Where Ontario adopted the COSEWIC
12 interpretation, it strikes me there is still some time
13 taken to place the plant or animal into the -- get it
14 designated under the Act. In the case of again aurora
15 trout which is one I am familiar with there was a
16 disagreement by Ontario as to whether it should be
17 endangered in the first place. It is our thought and
18 hope that it is being rehabilitated.

19 Q. I will come back to that. You have
20 in front of you Exhibit 5A.

21 A. What is 5A?

22 Q. 5A is the -- the front page would be
23 entitled supplementary correspondence. I refer you to
24 page 13 and the page numbers are found on the bottom
25 right-hand side of each page.

1 Mr. Kenrick, we are referring to the
2 third paragraph on that page. I believe we have
3 discussed it previously. As you know it states, this
4 is the Ministry of Natural Resources speaking, that:

5 "existing information which is normally
6 available for any management unit in the
7 province includes habitats of endangered
8 species."

9 That is under the heading of wildlife
10 down at the bottom of the page. Do you see that?

11 A. Yes. I do.

12 Q. Now, can I presume that what the
13 Ministry is saying there is that they are referring
14 solely to species that are listed under the Endangered
15 Species Act of Ontario?

16 A. I wouldn't think so. I think it
17 would include the longer list. I am sure we have
18 information on habitats of aurora trout and they
19 wouldn't be under the Act.

20 Q. So when you say habitats of
21 endangered species on that page, you mean species that
22 COSEWIC considers endangered; is that your
23 understanding?

24 A. I think there would be a question
25 there about level of detail. If there hadn't been a

1 status report the records may not have -- obviously
2 there hadn't been a detailed survey done. They may be
3 rather broad. It may be at a level that would be shown
4 in -- where the National Museum of Man listing where
5 there is some locations marked and there is habitat
6 ranges marked.

7 Q. So your understanding is that this
8 attachment No. 2 prepared by the Ministry of Natural
9 Resources, when it lists habitats of endangered
10 species, does not intend to limit itself to endangered
11 species under the provincial statute; is that correct?

12 A. That would be the way I would
13 interpret it.

14 Q. Well, is that the way the Ministry
15 interprets it?

16 A. I can't answer that.

17 Q. Could I ask you to take that under
18 advisement and provide the Board with the answer to
19 that question as well?

20 MR. FREIDIN: Yes.

21 MR. CASTRILLI: Thank you.

22 Q. Now, while we are on the subject of
23 this list, under the heading of wildlife on page 13 I
24 note that it only states habitats of endangered
25 species, it does not say habitats of rare or threatened

1 species; would you agree?

2 MR. KENRICK: A. That's correct.

3 Q. And can I take it then that the
4 Ministry of Natural Resources is advising the Board in
5 Exhibit 5A or advising the reader in Exhibit 5A that it
6 does not now have information available for COSEWIC
7 listed rare or endangered -- excuse me, rare or
8 threatened species at the management unit level?

9 A. No, I think that our districts from
10 an operating point of view would have access to the
11 same level of information as the status reports had to
12 put something on that list in the first place.

13 Similarly, they would have the access to
14 the computer files that are the back up to the National
15 Museum of Man information.

16 Q. All right. Well, would you agree
17 with me then that this attachment No. 2 should be
18 amended to read habitats of rare, threatened or
19 endangered species?

20 A. I would think so.

21 Q. Your answer is yes?

22 A. Yes.

23 Q. Thank you. I will just give you a
24 general proposition, Mr. Kenrick.

25 Would you agree that in most natural

1 communities non-game animals make the greatest
2 contribution to vertebrate species, diversity and
3 abundance and are critical elements of the functioning
4 of natural ecosystems?

5 A. I would suggest you ask a biologist
6 that question.

7 Q. You are not familiar with that
8 notion?

9 A. In a general sense, yes.

10 Q. Do you agree with it or disagree with
11 it? You are a manager at a district level; are you
12 not?

13 A. Yes.

14 Q. Do you agree or disagree in general
15 with that proposition?

16 A. Repeat your question, please.

17 Q. Surely.

18 Would you agree that in most natural
19 communities non-game animals make the greatest
20 contribution to vertebrate species, diversity and
21 abundance and are critical elements of the functioning
22 of natural ecosystems?

23 A. Inasmuch as there is probably more
24 non-game animals than there are game, I would agree
25 with that.

1 Q. Can I take it the Ministry of Natural
2 Resources also agrees with that proposition?

3 THE CHAIRMAN: Well, Mr. Castrilli, the
4 witness has indicated that he thinks that that kind of
5 question should be better put to a biologist.

6 You have said -- or indicated that since
7 he was managing at a particular level that he might
8 venture an opinion on it as well. He has given you his
9 opinion.

10 Now, that doesn't necessarily, I would
11 think, represent the Ministry's opinion if the Ministry
12 would rather rely on a biologist's opinion working for
13 the Ministry.

14 MR. CASTRILLI: Well, Mr. Chairman I
15 believe...

16 THE CHAIRMAN: Certainly this requires
17 some degree of expertise to give you a definitive
18 answer.

19 MR. CASTRILLI: Q. Mr. Kenrick, do you
20 have a copy of Habitat Management Guidelines for
21 Ontario's Forest Nesting Accipiters, Buteos and Eagles
22 prepared by Ross James?

23 MR. KENRICK: A. Yes, I do.

24 MR. CASTRILLI: Mr. Chairman, I would
25 like to make this the next exhibit.

1 THE CHAIRMAN: Exhibit 237.

2 ---EXHIBIT NO. 237: Document entitled: Habitat
3 Management Guidelines for
4 Ontario's Forest Nesting
5 Accipiters, Buteos and Eagles,
6 prepared by Ross D. James, dated
7 March, 1984.
8

9
10 MR. CASTRILLI: Mr. Chairman, in general
11 at the end of my cross-examination I will be filing a
12 whole set of various MNR guidelines and my intention is
13 not to go through them in detail with the witness but
14 to reserve them for subsequent panels.

15 There is just one or two points on this
16 particular guideline that I would like to raise with
17 this witness.

18 Q. Page 4, Mr. Kenrick, paragraph 2.
19 The first sentence is the proposition I put to you
20 earlier. My first question really relates to the
21 status of this guideline.

22 What is the status of this guideline
23 within the Ministry of Natural Resources? Is it a
24 final guideline?

25 MR. KENRICK: A. First of all, I believe
26 Panel 8, I stand corrected, will be dealing with the
27 use of these guidelines in more detail. Secondly, I
28 believe the use of all of these guidelines are
29 addressed in the EA Document, page 185 -- sorry, 189

1 is the paragraph I would refer you to.

2 Q. I am sorry, you are referring to page
3 189 of Exhibit 4?

4 A. I assume that is Exhibit 4.

5 Q. The Class Environmental Assessment
6 Document?

7 A. Yes.

8 Q. And which paragraph on page 189 are
9 you referring to?

10 A. 1.3.2, Other Sources of Direction,
11 starting: "Scientific literature..."

12 Q. Which particular -- are you referring
13 to lines 16 through 18, for example?

14 A. 13 through --

15 Q. 13 through 19?

16 A. Yes.

17 Q. Basically that paragraph, the first
18 paragraph under that heading?

19 A. That's correct.

20 Q. Well, that tells me that scientific
21 literature and other reports are available for use in
22 timber management planning. It doesn't tell me what
23 the status of this document is within the Ministry of
24 Natural Resources.

25 What is the status of this set of

1 guidelines. First of all, is it a final guideline, to
2 your knowledge? I am referring now to Exhibit 237?

3 A. I don't know.

4 Q. You don't know.

5 A. I know those documents are available
6 to field staff in all districts and are used as a
7 guideline to mitigate impacts on those types of
8 accipiters and buteos and eagles. In terms of the
9 approval level it went through, I am not sure.

10 Q. I'm sorry, Which panel is going to
11 deal with these guidelines including this one?

12 MR. FREIDIN: Panel 8.

13 MR. CASTRILLI: Panel 8.

14 MR. FREIDIN: Panel 8 will be describing
15 in general terms the various types of documents used by
16 Ministry staff when making planning decisions as
17 outlined on page 19 and preceding there where they talk
18 about provincial guidelines, silviculture guidelines
19 and other sources of information.

20 So Panel 8 will be dealing with that in a
21 very general way. I think some of the people in Panel
22 7 will be able to speak to how in fact those documents
23 might be used or applied by them in timber management,
24 as will the particular experts in all of the other
25 panels will be able to indicate how they see these

1 documents being used.

2 MR. CASTRILLI: that's why I am content,
3 I just want to know --

4 Q. As you recall, Mr. Kenrick, I asked
5 you about the first sentence in paragraph 2 on page 4.
6 Is it now your testimony that someone in Panel 7 or 8
7 will be able to confirm for me whether that proposition
8 is in fact accepted by the Ministry of Natural
9 Resources and not simply by you?

10 MR. FREIDIN: Yes.

11 MR. CASTRILLI: Thank you.

12 Q. Another general proposition for you,
13 Mr. Kenrick. Would you agree that a goal of forest
14 managers for non-game species conservation should be
15 the maintenance of as many naturally occurring habitats
16 as possible?

17 MR. KENRICK: A. I don't think so.
18 Naturally occurring as possible, that would to me
19 suggest not altering or disturbing any natural habitat
20 at all, even in a short-term sense.

21 Q. That is fine.

22 MR. CASTRILLI: Mr. Chairman, I referred
23 earlier to COSEWIC and various lists. I don't
24 particularly have further questions at this time on
25 this matter, but I would like to file what I understand

1 is the most up-to-date list of endangered species in
2 Canada as determined by COSEWIC and it will undoubtedly
3 be the source of questioning in subsequent panels.

4 THE CHAIRMAN: Very well. Exhibit 238.

5 ---EXHIBIT NO. 238: Copy of COSEWIC complete list of
6 endangered species in Canada.

7

8 MR. CASTRILLI: Q. Another general
9 proposition for you, Mr. Kenrick. Would you agree that
10 shoreline timber reserves can serve as important winter
11 sheltering areas for moose when surrounding areas have
12 been cut?

13 MR. KENRICK: A. Again, I think you are
14 getting into something that you should probably ask of
15 a biologist.

16 Q. That's fine. Which panel will there
17 be a biologist from the Ministry of Natural Resources
18 on?

19 MR. FREIDIN: Panel 7, and every other
20 panel up to -- I think probably right through to the
21 end of 15. I think there will be a biologist on every
22 panel.

23 MR. CASTRILLI: That is fine.

24 Q. Can you confirm that shoreline
25 reserves minimize erosion, sedimentation and water

1 temperature changes?

2 MR. KENRICK: A. That would be my
3 opinion, yes.

4 Q. Can you confirm for me that old
5 growth forests provide optimum habitat for many species
6 of fish and wildlife?

7 A. I think I would prefer it if you said
8 some species, but there are some species for which old
9 growth is optimum habitat, yes.

10 Q. Thank you. Would you agree that
11 birds can prevent spruce budworm populations from
12 becoming epidemic?

13 A. I don't feel qualified to answer
14 that.

15 Q. Which panel can answer that?

16 MR. FREIDIN: Panel 13.

17 MR. CASTRILLI: Panel 13, thank you.

18 Perhaps I can just ask the next question
19 of Mr. Freidin. Which panel can I put questions to
20 respecting woodland caribou?

21 MR. FREIDIN: I guess it depends on what
22 the question is.

23 MR. CASTRILLI: Why don't I put the
24 question and then you can tell me. Is that fair
25 enough?

1 THE CHAIRMAN: Might as well, at this
2 point.

3 MR. CASTRILLI: I can't see any other way
4 of doing it.

5 THE CHAIRMAN: Go ahead.

6 MR. CASTRILLI: Does the Ministry of
7 Natural Resources know where woodland caribou exist in
8 Ontario today?

9 MR. FREIDIN: I believe Panel 7 should be
10 able to answer that question.

11 MR. CASTRILLI: Panel 7, thank you.

12 Does the Ministry know where caribou
13 wintering areas are located?

14 MR. FREIDIN: Panel 7.

15 THE CHAIRMAN: Are you going to be on
16 Panel 7, Mr. Freidin?

17 MR. FREIDIN: No, I am not going to be
18 here.

19 MR. CASTRILLI: I presume information
20 with respect to woodland caribou on a management unit
21 basis will also be available from Panel 7?

22 MR. FREIDIN: I can't advise you. First
23 of all, I am not sure what you mean by having that
24 information available on a management unit basis.

25 MR. CASTRILLI: Sorry. Well, I am just

1 taking the way that you have organized your case, Mr.
2 Freidin, and you tell me that in Panel 7 you are going
3 to be talking about the environment on a management
4 unit basis.

5 Can I presume that I can put questions to
6 whoever is on that panel in Panel 7 on woodland caribou
7 on a management unit basis and expect answers?

8 MR. FREIDIN: Not on every specific
9 management unit. If you are thinking of putting the
10 specific questions about, you know, the woodland
11 caribou on "x" management unit, I don't think that the
12 witness in Panel 7 is necessarily going to be able to
13 answer that kind of a question.

14 In fact, there is no person I think that
15 is going to be put up as a witness that could answer
16 that question on every management unit.

17 MR. CASTRILLI: That's fine. In general
18 we are speaking of Panel 7 though as opposed to Mr.
19 Kenrick?

20 MR. FREIDIN: I think that is a good
21 place to start.

22 MR. CASTRILLI: Okay.

23 Q. Mr. Kenrick, could I ask you to turn
24 to Interrogatory Question No. 18 in what is now Exhibit
25 233.

As you will recall we asked you for a copy of reference 40 in your report which is a study by or on econometrics respecting the economic impact of wildlife expenditures in Ontario. And, as you will recall in your answer which appears on the same page of Exhibit 233, you stated that a 1981 study entitled The Importance of Wildlife to Canadians was jointly done by the Canadian Wildlife Service and the provinces and you go on to note that unfortunately there was no economic data in the report.

11 Do you see that on that page?

12 MR. KENRICK: A. I do.

13 Q. Mr. Kenrick, you have previously been
14 given a copy of that report; is that correct?

15 A. That's correct.

16 MR. CASTRILLI: Mr. Chairman, I would
17 like to make this the next exhibit.

18 THE CHAIRMAN: Exhibit 239.

23
24 MR. CASTIRTLLI: Q. I would like to
25 begin. Mr. Kendrick, by referring you to the summary

1 page which does not actually have a page number in what
2 is now Exhibit 239.

3 MR. KENRICK: A. Yes.

4 Q. And I will read that portion of the
5 first paragraph under the summary heading into the
6 record:

7 "A comprehensive survey conducted by
8 Statistics Canada in 1982 and sponsored
9 by federal, provincial and territorial
10 wildlife agencies and a number of non-
11 government groups revealed that Canadian
12 wildlife resources were highly valued to
13 the nation."

14 And the remainder of the paragraph goes
15 on to note that the study questioned approximately
16 100,000 Canadians from all regions and walks of life.

17 I just wanted to ask you firstly: Would
18 you agree -- let me ask you in the collective sense:
19 Does the Ministry of Natural Resources agree that
20 Canadian wildlife resources are highly valued to
21 Ontario and Ontario residents?

22 A. Yes.

23 Q. Your answer is yes?

24 A. Yes.

25 Q. I would like to refer you to page 1

1 of the same document and read portions of the first two
2 paragraphs on the left-hand side of the page:

3 "Wildlife has long been regarded as a
4 great Canadian heritage and as one of
5 Canada's valuable natural resources.

6 Federal and provincial governments have
7 been charged with the stewardship of this
8 precious resource and have the legal
9 responsibility for preserving, enhancing
10 and managing it for the present and
11 future benefit of Canadians."

12 And the second paragraph:

13 "It is often acknowledged that wildlife
14 has a direct impact on millions of
15 Canadians enhancing tourism and
16 contributing significantly to the
17 economy."

18 Do you agree with that assessment, Mr.
19 Kenrick?

20 A. Yes, I think that's consistent with
21 what is in my evidence package.

22 Q. And the remainder of the page goes on
23 to state what the aim of the survey was and the reasons
24 for the conducting of the survey.

25 I would like to now refer you to page 25

1 of Exhibit 239. Referring to heading 5.1 Attitudes
2 Toward Wildlife Populations. The paragraph reads:

3 "In 1981 about 80 per cent of the
4 Canadian population indicated they felt
5 it was very or fairly important to
6 maintain abundant wildlife."

7 And the text refers the reader to the
8 figure on the next page and I will be referring you to
9 that in a moment.

10 "This feeling was strong across Canada
11 with over 70 per cent of residents of all
12 provinces stating that maintaining
13 abundant wildlife was important. At the
14 provincial level the percentage reporting
15 very important or fairly important was
16 about the same as that of the national
17 level."

18 And then if we turn, Mr. Kenrick, to the
19 next page, page 26, and we look at what is Figure 5.11,
20 the heading of that is Percentage of Canadians
21 Reporting Maintaining Abundant Wildlife to be Very or
22 Fairly Important in 1981, and it is done on -- by
23 province of residence basis.

24 You see that the percentage in Ontario
25 was 81.8 per cent of those reporting who stated that

1 maintaining abundant wildlife to be very or fairly
2 important and this exceeded the national average which
3 was 80 per cent.

4 Now, does the Ministry of Natural
5 Resources accept those figures?

6 A. I believe we accept the conclusion.
7 I am not sure statistically of whether 81.8 per cent --
8 we adopt the conclusion seems logical.

9 Q. Does the Ministry of Natural
10 Resources have any better figures to provide to the
11 Board?

12 A. Not to my knowledge. My
13 understanding is that there was a disagreement between
14 Ontario and that study and that is the reason it wasn't
15 used for the basis of my evidence package. Perhaps the
16 best way to illustrate, is if you refer to this
17 companion document--

18 Q. We will be doing that.

19 A. --you will see that Ontario is not
20 included in it.

21 Q. We will be getting to that as well.

22 A. And that was because of some
23 disagreement over I believe the use of specifics. That
24 is the reason I am a little cautious in answering that.

25 Q. Okay. But in relation to this

1 document which is a separate document from the one you
2 were just referring to, you say that the Ministry
3 generally accepts the conclusions found in what is now
4 known as Exhibit 239. You say, however, the Ministry
5 has reservations about the figures; is that correct?

6 A. That's my interpretation, yes.

7 Q. We are referring in particular to
8 Figure 5.11, the Ministry has reservations about that
9 figure?

10 A. Having not used this document as the
11 basis for my evidence, I couldn't comment on the
12 specifics of one column and one page in that document.

13 Q. That's fine. But I asked you whether
14 the Ministry has any better figures to provide to the
15 Board and your answer was it does not; is that right?

16 A. That's correct.

17 Q. Thank you. Now, would you agree that
18 a -- sorry.

19 A. If I may, just to qualify that a bit.
20 My understanding is this study is being redone and will
21 have better figures and will be available late 1988,
22 early 1989.

23 Q. It is not being redone, it is being
24 updated?

25 A. Done again, right.

1 Q. Yes. Would you agree that a
2 potential implication for wildlife management agencies
3 from this finding - and I am referring to Figure 5.11 -
4 could be the need to increase or initiate efforts to
5 protect wildlife in order to meet this apparent Ontario
6 public concern? Would that be a reasonable conclusion
7 to draw?

8 A. Reasonable and I believe I stated the
9 other day that in response to a growing interest in
10 wildlife, including the non-consumptive uses of
11 wildlife the Ministry, for instance, is reviewing its
12 non-game policies right now. That would be in response
13 to that type of a trend.

14 Q. And when would the Ontario public
15 expect to see the results of that review?

16 A. I don't know.

17 Q. What form will the results appear?

18 A. I assume a policy review results in a
19 new policy.

20 Q. Well, is there a policy now? Is
21 there a policy document now?

22 A. I believe one of the documents that
23 you quoted the other day said -- made a reference and
24 devoid of a policy I think was the reference.

25 Q. Would that be Edwards' article?

1 A.. That's correct.

2 Q. Is there a policy document on
3 wildlife management?

4 A. Not that I have seen.

5 Q. So we are not talking about review of
6 the policy, we are talking about creation of a policy;
7 is that right?

8 A. Well, it's through a process of
9 review in the Ministry that it is created in the first
10 place.

11 Q. I'm sorry, I missed the last part of
12 that.

13 A. It is through a process of review in
14 the Ministry and dialogue that policy is generally
15 created in the first place.

16 Q. Continuing with page 26, I am now
17 looking at the text at the bottom of the left-hand side
18 of that page. The reference commences:

19 "When asked to indicate how important
20 preserving endangered species was to them
21 82 per cent reported it was very or
22 fairly important..."

23 And the authors of the text Canadian
24 Wildlife Service refer to Figure 5.12, and it goes on
25 to state:

1 "Once again this strong support was
2 reflected across Canada with all
3 provinces exceeding the 75 per cent
4 level. As in maintaining abundant
5 wildlife, the percentage of provincial
6 residents stating that preserving
7 endangered species was very important or
8 fairly important closely followed the
9 national figures."

10 Now, does the Ministry of Natural
11 Resources accept the figures in 5.12?

12 A. Again I can't speak to the specific
13 figures. What I can speak to is, I believe, the
14 Ministry adopts the conclusion that is made there.
15 Wildlife is important.

16 Q. And can I also conclude that the
17 Ministry does not have any better figures with
18 respect...

19 A. I believe that's correct.

20 Q. That's correct. I refer you now to
21 page 28 -- excuse me page 29. The top paragraph on
22 that page, referring to -- the authors of the report
23 are referring to the potential implications for
24 wildlife management and the first one they list on page
25 29 is:

1 "The increased awareness of wildlife
2 management agencies of the extent and
3 nature of the interest of Canadians in
4 wildlife may lead to a reconsideration of
5 current policies and programs, some
6 government agencies may consider
7 expanding current policies and programs
8 while others may develop new ones to
9 address previously uncharted public
10 interests."

11 Can you advise the Board, Mr. Kenrick,
12 whether the Ministry of Natural Resources produced a
13 formal response to this document.. This document being
14 Exhibit 239?

15 A. I don't know of one.

16 Q. And you testified previously that --
17 well, sorry, I won't put words in your mouth. What is
18 your opinion of that paragraph, do you agree with the
19 conclusions drawn by the authors and as it applies to
20 the Ministry of Natural Resources' wildlife management
21 programs?

22 A. I would agree with the statement and
23 it would be that kind of a reason that is behind I
24 believe the review or the review of a non-game policy
25 in the Ministry currently.

1 Q. I don't think I asked you when we
2 would see the results of that non-game policy. Do you
3 have an idea?

4 A. No, I do not.

5 Q. Mr. Kenrick, I am now referring you
6 to a document I believe you also have a copy of, The
7 Importance of Wildlife to Canadians, An Executive
8 Overview of the Recreational Economic Significance of
9 Wildlife.

10 Do you have that report?

11 A. I do.

12 MR. CASTRILLI: Mr. Chairman, I ask this
13 be made the next exhibit?

14 THE CHAIRMAN: Exhibit 240.

15 ---EXHIBIT NO. 240: Document entitled: The Importance
16 of Wildlife to Canadians, An
17 Executive Overview of the
 Recreational Economic Significance
 of Wildlife.

18 MR. CASTRILLI: Q. Mr. Kenrick, I would
19 like to first refer you to the introduction page which
20 again unfortunately does not have a page number. On
21 the left-hand side of that page it says summary, on the
22 right-hand side it says introduction. Do you have
23 that?

24 MR. KENRICK: A. Yes, I do.

25 Q. You notice the purpose of the report

1 was twofold, to show the economic value of the benefits
2 received by the people who participate in wildlife
3 related recreational activities and secondly to
4 describe the economic impacts that result from the
5 expenditures by those participants.

6 Now, I would like to refer you first to
7 page 1 which is the next page under what the authors
8 mean by economic significance. They state:

9 "Wildlife related recreational activities
10 generate two types of economic benefits;
11 firstly, direct benefits which are
12 received by those who participate in
13 wildlife related activities and,
14 secondly, indirect benefits resulting
15 from the impacts of the expenditures on
16 the Canadian economy."

17 Does Ministry of Natural Resources
18 generally accept that assessment for purposes of
19 wildlife management?

20 A. Where were you quoting your quote
21 from?

22 Q. Sorry, it is the heading under What
23 We Mean by Economic Significance, Section 1,
24 theparagraph where your pen is.

25 A. I believe so. I am not sure that

1 Ontario would endorse the same definition of direct and
2 indirect benefits that this particular report uses. I
3 believe that may be the basis of why Ontario data is
4 not in the report, but in a general sense, yes.

5 Q. Is there someone in other panels who
6 will be speaking generally to the economic significance
7 of wildlife in the Ontario context?

8 MR. FREIDIN: No.

9 MR. CASTRILLI: That is fine. I will
10 move on.

11 Q. Before I ask further questions about
12 this document, does the Ministry have any reports it
13 wishes to produce that refute the assessment contained
14 in this document?

15 MR. FREIDIN: Not at this point in time.

16 MR. CASTRILLI: Is it producing one?

17 MR. FREIDIN: I don't know.

18 MR. CASTRILLI: It is an eight-year old
19 document.

20 MR. FREIDIN: You have my answer.

21 MR. CASTRILLI: Still on page 1, the
22 bottom right-hand side of the page under indirect
23 benefits, it is the last full paragraph on that page,
24 Mr. Kenrick, the sentence beginning:

25 "The analysis revealed..."

1 Do you see that?

2 MR. KENRICK: A. Yes.

3 Q. "The analysis revealed that wildlife
4 related expenditures contribute
5 significantly to Canada's gross business
6 production, gross domestic product,
7 employment, personal income and
8 government revenue."

9 Does the Ministry of Natural Resources
10 accept that assessment?

11 A. I would say generally, yes.

12 THE CHAIRMAN: Mr. Castrilli, when you
13 said that this is an eight-year old document, is this
14 not 1985, the one we are looking at?

15 MR. CASTRILLI: Well, my understanding,
16 Mr. Chairman, is that it evolved over a number of
17 years. I believe the effort began in 1981 or '82 and
18 it took until 1984 or '85 to actual produce the
19 document and I believe my understanding is the same as
20 Mr. Kenrick's, that now this document and the earlier
21 document are being updated for release some time in
22 1988, '89.

23 THE CHAIRMAN: Thank you.

24 MR. CASTRILLI: Q. I would like to refer
25 you now to page 18, Mr. Kenrick, actually the

1 conclusion and you actually have to fold out the page
2 to find page 18.

3 I would like to begin with the first
4 paragraph on that page, the paragraph:

5 "The recreational economic significance
6 of wildlife in Canada constitutes an
7 important asset to the nation. Wildlife
8 provides substantial economic benefits
9 not only to the people who personally
10 enjoy the resource but also to the
11 Canadian economy as a whole."

12 Do you agree with that assessment in
13 relation to Ontario?

14 MR. KENRICK: A. I would.

15 Q. Your answer is yes.

16 A. Yes.

17 Q. Moving to the second paragraph on
18 that page and leaving aside the figures for the moment,
19 just look at second sentence:

20 "Wildlife resources provide a wide range
21 of social benefits including such diverse
22 aspects as the provision of food to meet
23 subsistence needs and the provision of
24 artistic inspiration to meet aesthetic
25 need."

1 Does the Ministry of Natural Resources
2 agree with that assessment in relation to Ontario?

3 A. I believe the Ministry recognizes
4 those values, yes.

5 Q. Your answer is yes?

6 A. Yes.

7 Q. Moving to the third paragraph on that
8 page, the authors note:

9 "To obtain a better appreciation of the
10 significance of these benefits it would
11 be helpful to compare them with other
12 established findings. For example,
13 tourism is a major national industry
14 capable of playing a key role in the
15 revitalization of the national and
16 provincial economies. Wildlife related
17 activities account for a significant
18 portion of the tourism industry."

19 Does the Ministry of Natural Resources
20 accept that assessment in relation to Ontario?

21 A. I would be a little cautious about
22 the word significant, but yes, the wildlife makes a
23 contribution to tourism. Just significant compared to
24 what would be my only question.

25 Q. So with the exception of significant

1 you agree with the paragraph?

2 A. Generally, yes.

3 Q. Moving to the fourth paragraph on
4 that page and really I am interested in the last
5 sentence. It states:

6 "The results also serve as a reminder of
7 the significant economic benefits that
8 would be at risk if present wildlife
9 population levels and habitats and
10 current wildlife conservation efforts
11 across the country were allowed to
12 decline."

13 Do you agree with that assessment in
14 relation to Ontario? .

15 A. I would.

16 Q. Your answer is yes?

17 A. I would, but I would also again note
18 that the report that it is drawing the conclusion of
19 didn't have the economic benefits for Ontario included
20 in it.

21 Q. I am coming to that, but your
22 agreement is...

23 A. Yes.

24 Q. Sorry, your answer is yes?

25 A. Yes.

1 Q. Thank you.

2 Q. Now, in your answer to our
3 Interrogatory 18 you said there was no economic data in
4 the CWS report and you have already talked about that
5 or you have mentioned that already. I would like to
6 refer you to the introductory page of what is now
7 Exhibit 240 -- sorry that is the last sentence in the
8 first paragraph under the introduction. It states --
9 begins with the phrase, Section 3. Do you have that?

10 A. Yes.

11 Q. Yes. It doesn't have a page number,
12 unfortunately but you have the right page.

13 It states:

14 "Section 3 contains charts that summarize
15 the economic results for Canada and the 9
16 provinces that sponsored the analysis."

17 Do you see that?

18 A. Yes.

19 Q. And if we turn to page 8 which is
20 Section 3 under the heading Provincial and Economic
21 Results, this is where they are summarized?

22 A. Yes.

23 Q. And if we run from page 8 through to
24 page 17 we see that there is a summarization of the
25 economic benefits of wildlife related recreational

1 activities by residents of 9 provinces; is that right?

2 A. That's correct.

3 Q. And the province that is not listed
4 there is Ontario; is that right?

5 A. That's correct.

6 Q. Now, the report says at the
7 introductory page that Section 3 contains charts that
8 summarize the economic results for Canada and the 9
9 provinces that sponsored the analysis. Can we conclude
10 that Ontario did not sponsor an analysis for this
11 report?

12 A. I don't know the answer to that.

13 Q. Sorry, your answer is you don't know
14 the answer to that?

15 A. I don't know.

16 Q. Who is in a position to know that
17 answer?

18 A. I believe I can get you the name.

19 There is an individual in Wildlife Branch that worked
20 on this project.

21 Q. Well, let's move on while you think
22 about that.

23 MR. FREIDIN: He's not thinking about it,
24 I think he gave you an answer, Mr. Castrilli.

25 MR. CASTRILLI: Well then, we will deal

1 with the answer as he has given it.

2 Q. Mr. Kenrick, you now have the
3 additional page of this document; is that correct?

4 MR. KENRICK: A. I have an additional
5 page, yes.

6 MR. CASTRILLI: Mr. Chairman, I would
7 like to make this the next exhibit.

8 THE CHAIRMAN: Exhibit 241.

9 ---EXHIBIT NO. 241: Additional page entitled: Economic
10 Benefits of Wildlife Related
11 Recreational Activities by
Residents of Ontario in 1981.

12 MR. MARTEL: Could I have one too.

13 THE CHAIRMAN: Mr. Castrilli, could we
14 have an extra one for Mr. Martel, please.

15 MR. CASTRILLI: Oh, I am sorry. Mr.
16 Chairman, this is Exhibit 241?

17 THE CHAIRMAN: That's correct.

18 MR. CASTRILLI: Q. Mr. Kenrick, you will
19 see that Exhibit 241 is a single page which is in the
20 same format as Section 3 in what is now Exhibit 240
21 and you will see at the top of the page that this is
22 the summary for Ontario.

23 MRS. KOVEN: Who filled this in, Mr.
24 Castrilli?

25 MR. CASTRILLI: I'm sorry?

1 MRS. KOVEN: Who filled in this diagram
2 with these numbers?

3 MR. CASTRILLI: I understand it was done
4 by the Canadian Wildlife Service, the authors of this
5 report -- I am sorry, the authors of Exhibit 240.

6 MRS. KOVEN: And why isn't it in Exhibit
7 240?

8 MR. CASTRILLI: That is what I am
9 attempting to find out from Mr. Kenrick.

10 Q. Mr. Kenrick, perhaps you can just
11 simply advise the Board your understanding of why there
12 is no summary assessment for Ontario in Exhibit 240?

13 MR. KENRICK: A. My understanding is
14 there was a disagreement over the use of the
15 statistics.

16 Q. Can you elaborate on what that means?

17 A. No, I cannot. I didn't use this
18 document because of that, those numbers were not
19 published.

20 Q. Mr. Kenrick, I believe the court
21 reporter is having some difficulty hearing you. You
22 may have to either speak up or repeat yourself.

23 A. I did not use that information and
24 that is also why I believe it wasn't published in the
25 document. I don't know where that came from.

1 Q. So your understanding is Ontario has
2 never seen this page before?

3 A. No, I didn't say that. What I said
4 was I understood Ontario disagreed with the statistics
5 that were -- the economic portion of the statistics
6 that were generated by that study and, hence, I would
7 expect that is the reason why it isn't in the document.

8 Q. Well, what exactly was the nature of
9 the disagreement that Ontario would actually permit a
10 federal report to be produced that did not include any
11 assessment for Ontario?

12 A. I don't know, sir. You are asking me
13 detailed questions about a report which I didn't use to
14 put together my witness package.

15 Q. Well, you may not have used it to put
16 it together in your witness package, but you were
17 obviously aware of it since you referred me to it in
18 your interrogatories.

19 A. That is correct.

20 Q. So what is the Ministry's reasons for
21 rejecting the assessment that is now Exhibit 241?

22 A. I could not answer that in any more
23 detail than I have already told you.

24 Q. And is it your testimony that no one
25 from the Ministry of Natural Resources is in a position

1 to answer that question either?

2 A. No, I believe there can be an answer
3 for that.

4 Q. Which panel?

5 A. I don't believe the individual who
6 worked on this is on any panel, I think an answer can
7 be obtained.

8 THE CHAIRMAN: Mr. Freidin, would you
9 undertake to provide an answer to that question, if you
10 can?

11 MR. FREIDIN: Yes, sir.

12 MR. CASTRILLI: Q. Are there any parts
13 of Exhibit 241 that the Ministry of Natural Resources
14 does agree with?

15 MR. FREIDIN: Well, Mr. Chairman, I am
16 getting concerned that we put all these questions to
17 this witness and he indicated the use to which he
18 put -- or he didn't use this report.

19 THE CHAIRMAN: Perhaps it would expedite
20 it, Mr. Castrilli, if you have some very specific
21 questions to do with this report, to put them by way of
22 an interrogatory or indicate quickly on the record what
23 your questions are and Mr. Freidin might attempt to
24 provide the answer, if the Ministry can, from some
25 other person.

1 MR. CASTRILLI: Well, Mr. Chairman, I am
2 not sure it would be appropriate to do this by way of
3 interrogatory. This is obviously something the
4 Ministry of Natural Resources doesn't want to be part
5 of their case, rejects as something they would want to
6 put forward as part of their case. I think an
7 interrogatory would get us nowhere.

8 MR. FREIDIN: First of all that wasn't
9 the evidence of this witness. He just finished
10 spending a lot of time telling you that the Ministry
11 agrees with the conclusion by and large in this report.
12 It has some concern about the specific numbers and
13 not -- your characterization is incorrect.

14 MR. CASTRILLI: Sorry, my
15 characterization is in relation to this page and really
16 what is Exhibit 240. There is nothing in Exhibit 240
17 about Ontario, however I...

18 THE CHAIRMAN: Well, you have asked this
19 witness where this page came from or what his knowledge
20 is about this page. He has indicated that he didn't
21 utilize the report as the basis for his evidence and he
22 is not aware of where this page came from or who
23 produced it or what significance it has.

24 Now, he did indicate that there may be
25 somebody in the Ministry that may know more about it.

1 So if you want to put a question on this page, then
2 perhaps Mr. Freidin might undertake to try and provide
3 the answer, if he can.

4 MR. CASTRILLI: I am certainly prepared
5 to do that.

6 THE CHAIRMAN: Okay.

7 MR. CASTRILLI: Q. Let's first look at
8 direct benefits received by participants, Mr. Kenrick.
9 You will see there that the direct benefits are listed
10 as \$252-million and the capitalized value of benefits
11 when you combine both hunting and non-consumptive is
12 \$2.5-billion. Does the Ministry of Natural Resources
13 accept those figures?

14 A. 2.5...

15 Q. Billion.

16 A. Billion. Given my understanding that
17 there was a problem with the statistical base, I
18 suspect no, the Ministry doesn't buy that figure
19 specifically.

20 Q. All right. Does the Ministry of
21 Natural Resources have other figures it would like to
22 propose as being the appropriate ones?

23 MR. FREIDIN: No.

24 MR. CASTRILLI: And I understand you are
25 going to be providing the basis for the Ministry's

1 rejection of these numbers; is that correct?

2 . MR. FREIDIN: In a general way, yes.

3 . MR. CASTRILLI: Q. Now, moving to
4 indirect benefits for the economy -- excuse me, this is
5 the Ontario economy. They are noted at the bottom of
6 the page in billions of dollars, 1.3-billion...

7 . MR. FREIDIN: Where?

8 . MR. CASTRILLI: Mr. Freidin, if you look
9 at 1,363-million that is clearly \$1.3-billion, would
10 you agree?

11 . Q. They are noted at 1.3-billion and the
12 economic impacts are so noted in the hundreds of
13 millions as you go down the various sub-headings on
14 that page. Now, including also I would note number of
15 jobs on the right-hand side of the page 71,000 plus.

16 . Does the Ministry of Natural Resources
17 accept those figures?

18 . MR. KENRICK: A. Same answer as my
19 previous one.

20 . Q. And will the Ministry be providing a
21 basis for the Ministry's rejection of the indirect
22 benefits noted on this page?

23 . A. I understand the response to that is
24 in a general sense, yes.

25 . Q. And does the Ministry have any better

1 figures to produce than the figures on this page?

2 A. The same answer as the last time, I
3 suspect no. We are waiting for the 1986 study which
4 will not be available until late '88 or '89.

5 MR. FREIDIN: Mr. Chairman, I am
6 wondering whether Mr. Castrilli could clarify where the
7 figures from this document came from. He has asked
8 questions on it.

9 THE CHAIRMAN: He indicated that he
10 believed they came from the authors of the original
11 report.

12 MR. FREIDIN: Does he know where they got
13 the figures?

14 MR. CASTRILLI: Mr. Freidin, if I give
15 you the answer to that you won't truly wish you had
16 asked the question. They came from simply subtracting
17 from the global figure the other nine provinces, but I
18 am not going to give evidence about this matter. I can
19 simply advise the Board that this page came from the
20 Canadian Wildlife Service who were the authors of this
21 report.

22 Q. Now, Mr. Kenrick, just in general,
23 having referred you previously to page 18 of Exhibit
24 240 and in general you agreed with that the assessment
25 to be found in the conclusions I put to you on page 18,

1 and it also appears that, in general, these conclusions
2 don't actually draw from any economic assessment of
3 Ontario since there wasn't one in this particular
4 report.

5 Would you agree with me that if the
6 figures in Exhibit 241 are accurate that the
7 conclusions found at page 18 are even more enhanced?

8 A. Generally, yes. I see some portions
9 of conclusions there about inside and outside of major
10 urban centres and...

11 Q. Well, I am saying just in relation to
12 the parts of page 18 that I put to you, would you agree
13 that the conclusions that I put to you from page 18 are
14 even more enhanced if you accept those numbers?

15 A. Yes.

16 Q. Thank you.

17 MR. CASTRILLI: Mr. Chairman, I have a
18 third report in this series I only propose to file at
19 this time and I suspect it will be the subject of
20 examination in subsequent panels. I just want to get
21 it off my desk.

THE CHAIRMAN: Very well. Exhibit 242.

25 MR. CASTRILLI: Mr. Chairman, if we are

1 going to take a first break this afternoon this would
2 be an appropriate place to do it.

3 THE CHAIRMAN: Very well. The Board will
4 break for 20 minutes.

5 Thank you.

6 ---Recess taken at 2:20 p.m.

7 ---Upon resuming at 2:45 p.m.

8 THE CHAIRMAN: Thank you. Be seated,
9 please.

10 Ladies and gentlemen, just before we
11 continue, I have been advised by Mr. Castrilli that he
12 may be able to conclude in the next hour and a half
13 and, if that is the case, it is the Board's intention
14 to have Mr. Hunter start his cross-examination.

15 We want to finish this panel by Thursday
16 at two o'clock and Mr. Hunter has indicated that he
17 would probably be the better part of tomorrow, followed
18 by Mr. Edwards, I believe -- I am not sure how long he
19 will be, but I am assuming he will not be more than a
20 couple of hours.

21 And then Mr. Campbell has indicated that
22 he will probably be between two and three hours and I
23 think it all works out that we shall finish by Thursday
24 at two with this panel.

25 If it looks on Wednesday like there is

1 going to be some difficulty, then I would like to
2 suggest that the Board sits late on Wednesday so that
3 we will in fact finish on Thursday and we can discharge
4 Panel 6.

5 MR. HUNTER: Mr. Chairman, I am wondering
6 how late would you intend to sit today so I can plan
7 my...

8 THE CHAIRMAN: Well, I would suggest in
9 view of the fact that we are moving along at a fairly
10 steady clip that perhaps we would go for maybe an
11 hours' worth of your case today, if that is acceptable.

12 MR. HUNTER: Thank you.

13 THE CHAIRMAN: Thank you.

14 Mr. Castrilli?

15 MR. FREIDIN: Mr. Chairman, maybe I
16 should advise that there is a possibility that Ms.
17 Murphy is going to want to address the Board on the
18 site visits before the end of the day. She might not
19 be in a position to do that, but I just wanted to
20 advise you of that.

21 THE CHAIRMAN: Very well. And, Mr.
22 Freidin, we have not forgotten your re-examination
23 either. I am sure that you are going to be an hour or
24 so on re-examination.

25 MR. CASTRILLI: Q. Mr. Kenrick,

1 continuing. I understand your testimony to be that the
2 aurora trout, which is on the endangered species list,
3 is being reintroduced in several ways; is that correct?

4 MR. KENRICK: A. That's correct.

5 Q. We asked you several questions about
6 this fish which were recorded in Interrogatory Question
7 No. 12 in what is now Exhibit 233. Now, without
8 actually reading the entirety of Question 12, the gist
9 of your answer to our question about what endangered
10 species list the aurora trout was on, it indicates that
11 it was on the COSEWIC list but not on the Endangered
12 Species Act; is that right?

13 A. That's correct.

14 MR. CASTRILLI: And, Mr. Chairman, if you
15 look at Exhibit 238 you will see that in fact the
16 aurora trout is listed under endangered fish.

17 Q. Now, the answer you gave as to why
18 the aurora trout appears to be on the COSEWIC list but
19 not on the Endangered Species Act list is that under
20 item (a) the aurora trout is not scientifically
21 considered a separate species or sub-species but rather
22 a coloured variant of brook trout.

23 You go on to say:

24 "Therefore, they cannot be listed under
25 the Endangered Species Act."

1 Now, you seem to have given a legal
2 opinion there and I don't really want to ask you a
3 question that requires a legal analysis, but let me
4 just focus on the science part of your assessment.
5 Would you agree with me that there is a body of opinion
6 that does not necessarily accept the conclusions we
7 find in answer (a)?

8 MR. KENRICK: A. There could be. That
9 opinion is from one of the authors of the status report
10 Chris Brousseau who, going through the Ministry of
11 Natural Resources, is one of the people that developed
12 the rehabilitation plan for aurora trout. It is his
13 opinion and I understand the opinion of this Ministry.

14 Q. That is a scientific opinion; is that
15 right?

16 A. Yes.

17 Q. Now, does the Ministry have a legal
18 opinion, a written legal opinion on this?

19 A. Not that I have seen.

20 Q. Not that you have seen?

21 A. No.

22 Q. So when you gave your answer you were
23 not in fact relying on a written legal opinion; is that
24 correct?

25 A. No nor -- I might have, maybe I

1 inadvertently used the word therefore in there. It
2 wasn't meant as a legal opinion.

3 Q. Now, additionally under Question (b)
4 we asked what data on the stability of the population
5 were used by the Ministry of Natural Resources to
6 support the decision to allow angling for aurora trout
7 in 1986 and you were asked to provide the data.

8 The answer you gave is at item (b) the
9 bottom of that page. Among other things, can you
10 advise the Board what were the primary objectives of
11 stock maintenance and natural reproduction that were
12 attained. You refer to them in your answer.

13 A. My understanding - and I have read
14 the rehabilitation plan once - is that the position we
15 were in is all of the stock for aurora trout were in
16 one of our provincial hatcheries and it was the fear of
17 perhaps disease getting into the hatchery and
18 eliminating all of the stock.

19 So the first portion of that objective
20 was to guarantee the stock. So what happened was some
21 of it was put into another nursery, or hatchery to
22 split it up and it was also introduced into three or
23 four lakes, some of which -- or the number of lakes
24 listed there, some of which were made sanctuaries again
25 to protect the brood stock.

1 The highest of the three objectives was
2 stock maintenance. The second one was hopefully to
3 take some of that stock and find a lake where those
4 fish would naturally reproduce. Having worked on those
5 two objectives, the assessment by the way of the
6 natural reproduction, I believe the number of years the
7 fish have been in those lakes it's -- this year will be
8 the first year I understand where we can go back to
9 some of them - I think they were put in two years ago -
10 and see if in fact they are naturally reproducing.
11 Having worked on those first two primary objectives,
12 there was some stock and eggs left over and rather
13 than...

14 THE CHAIRMAN: Sorry, stock what left
15 over?

16 MR. KENRICK: Brood stock, adult fish and
17 eggs left over and the third objective was to increase
18 awareness of aurora trout and perhaps generate some
19 angling benefits. So the third, and I stress, the
20 third of those objectives was to use the remaining
21 stock to create a fishery.

22 MR. CASTRILLI: Q. Now, as you will note
23 from our question (d) we asked what data existed on the
24 stability of the population, what were used to support
25 the decision to allow angling for this endangered fish

1 and you have been asked to provide the data.

2 Can you confirm for me that no such data
3 was provided?

4 A. The report that was provided I think
5 was the creel census and that would be a result of the
6 harvest in the lakes that those fish were placed in as
7 opposed to the stability of the stock, if I understand
8 your question correctly.

9 Q. That is right. You provided us with
10 a creel census of the aurora trout which basically told
11 us the type of angling opportunity the aurora trout
12 provides. You also indicated that approximately 690
13 anglers spent several days trying to catch 25 aurora
14 trout. It doesn't tell me what the data are that speak
15 to the issue of the stability of the population.

16 Do you have such data?

17 A. Not that I am aware of.

18 Q. Now, in item (c) of our question,
19 Interrogatory Question 12, we asked what the monitoring
20 program, if any, was that is in place that permits
21 angling and you referred us back to question (b).

22 Now, again, that does not tell me what
23 the monitoring program is or the results of the data to
24 date; is that right?

25 A. This is just an assumption, but I

1 would assume that there is, in terms of lake survival
2 data, there is reasonable data for the stocks that are
3 in the provincial fish hatcheries.

4 Q. You would assume?

5 A. I would assume, yes. There is for
6 most species that are in provincial fish hatcheries.
7 As to whether there has been an individual survey done
8 on population levels in, say, Carrow Lake in Gogama, I
9 am not aware of that.

10 Q. So the bottom line is, Mr. Kenrick,
11 the Ministry of Natural Resources has a fishing season
12 for a fish which is endangered and is recognized as
13 such by the MNR at least when it wears its COSEWIC hat;
14 is that correct?

15 A. That's correct.

16 Q. Thank you. And your testimony is the
17 Ministry of Natural Resources does not have monitoring
18 data on this endangered fish; is that right?

19 A. There is some and I am not aware of
20 the totality of it. I know there has been surveys
21 done, joint surveys between Ministry of Environment and
22 ourselves on some of the original habitats, the Whirly
23 Gig and White Pine Lakes that are listed in there. I
24 know that portion exists. I know there is creel
25 census. I am not aware of further data than that.

1 Q. All right. What you provided us with
2 was a creel census which is not a review of the
3 population or an indication of what the population is
4 other than the population that was caught. Are you
5 prepared to provide the results of any monitoring data
6 you have on the fish; yes or no?

7 A. If there is some, and I don't know
8 the answer to that question.

9 Q. Could you make the appropriate
10 inquiries and so advise the Board?

11 MR. FREIDIN: I am just wondering what
12 the relevance of this line of questioning is. I mean,
13 how helpful is detailed information of this type going
14 to be in determining whether in fact the timber
15 management practices that were put forward for approval
16 are or are not environmentally acceptable.

17 MR. CASTRILLI: Mr. Chairman, my friend
18 is the one who has put the question of the aurora trout
19 into his evidence. He has told us, among other things
20 on page 72, that it is a fish on the endangered species
21 list, while it turns out to be a fish that is not in
22 fact protected by the provincial statute.

23 He has raised it in the context of his
24 evidence on a panel stating the environment affected
25 and I am entitled to ask the question why an endangered

1 fish isn't recognized as such by the provincial statute
2 that applies to such endangered species.

3 THE CHAIRMAN: But going beyond that
4 supposition, Mr. Castrilli, what relevance does the
5 status of this fish or this particular specie have with
6 respect to the timber management activities for which
7 the Ministry is seeking approval?

8 MR. CASTRILLI: Well, without getting
9 into the Endangered Species Act, Mr. Chairman, one of
10 the things the statute requires is the protection of
11 habitat for species that are listed under it.

12 It seems to me that if the aurora trout
13 is in an area where timber management activities take
14 place, those activities would be obliged by law to
15 protect the particular species and its habitat were it
16 caught by the Endangered Species Act. The fact that it
17 is not caught by the statute means that protection is
18 not, at least at first blush, available to it under
19 that statue.

20 That I believe is the relevance of the
21 questioning as to why this fish isn't on the list.

22 MR. FREIDIN: Well, Mr. Chairman, I think
23 it may be fair to ask the witness whether in his view
24 information that this particular species exists in a
25 specific lake would or would not result in certain

1 types of processes. where it be an area of concern
2 under the timber management planning process, what sort
3 of questions would be asked, how would they deal with
4 that information when determining whether they should
5 have timber management operations in the vicinity of
6 that particular lake.

7 THE CHAIRMAN: Well, wouldn't the more
8 relevant questions, Mr. Freidin, be: If this specie is
9 not on the endangered list, why is it not on the
10 endangered list and what process is there to keep it
11 off the endangered list?

12 MR. FREIDIN: Well, Mr. Chairman, I think
13 I would respond to that question by indicating that the
14 Board really isn't here to change the Endangered
15 Species Act. I don't believe it would be, you know,
16 for the Board to say that the Endangered Species Act
17 should be amended so as to include this or that.

18 And if that is correct, I don't know why
19 it is relevant whether it is on the list or not. I
20 think we are talking about what kind of protection
21 these fish get, if that is the concern of Mr.
22 Castrilli.

23 MR. CASTRILLI: Mr. Chairman, it is
24 obvious that even if the Ministry of Natural Resources
25 is not prepared to protect the aurora trout under the

1 Endangered Species Act it is entirely open to this
2 Board to protect that fish under any term and condition
3 it may decide to approve with respect to timber
4 management operations.

5 THE CHAIRMAN: Obviously, Mr. Freidin,
6 the Board is concerned with the impacts arising out of
7 the activities proposed and if these activities should
8 be such that might endanger a specie, whether or not it
9 is protected under the Endangered Species Act,
10 certainly is a relevant concern for the Board to take
11 into account when formulating conditions of approval,
12 if it wishes to approve the application.

13 So although the Board would not be in a
14 position to mandate that a particular specie be brought
15 under the Endangered Species Act, it would be in a
16 position to mandate the nature of the activities that
17 might, in the Board's view, endanger this specie other
18 specie. So, to that extent, it is certainly relevant.

19 MR. CASTRILLI: Sorry, sir. The question
20 I sought an undertaking for was: Will Mr. Kenrick make
21 the relevant inquiries and provide any and all data --
22 monitoring data with respect to this endangered fish,
23 including the earlier question I asked.

24 Actually, Mr. Chairman, the easiest way
25 to do it is to look at Interrogatory Question 2 as

1 well, excuse me, and you will see under (b) I asked for
2 the provision of data on the stability of the
3 population and under (c) I asked for monitoring data in
4 place with respect to this fish.

5 That is what I want the answers -- that
6 is what I want, that is what I wanted when I wrote the
7 interrogatories.

8 MR. FREIDIN: We will make inquiries and
9 if the answer should be changed we will advise that it
10 should be changed, we will provide an expanded answer.

11 MR. CASTRILLI: Well, it is the data I
12 want.

13 THE CHAIRMAN: Yes. You make the
14 inquiries, Mr. Freidin, as to whether the data
15 requested is available. If it is not available, so
16 advise the Board.

17 MR. FREIDIN: And if it is available, we
18 will produce it.

19 THE CHAIRMAN: Right.

20 MR. CASTRILLI: Which is what I thought
21 the purpose of an interrogatory was but obviously I
22 have been mistaken in that assumption.

23 MR. KENRICK: Let me add to my response.
24 If part of that question I thought I heard was having
25 identified aurora trout habitat, do we have something

1 in place that will enable us to protect it.

2 As Panel - I hate to make reference to a
3 future panel again - Panel 8 will deal with some of the
4 guideline packages and timber management guidelines for
5 the protection of fish habitat specifically mentions
6 aurora trout lakes in the class of lakes where we use
7 the most conservative of the guidelines along with lake
8 trout lakes, self-sustaining brook trout lakes. It is
9 acknowledged.

10 MR. CASTRILLI: Q. That's fine. Thank
11 you, Mr. Kenrick, I appreciate that answer. I still
12 want the the data and the monitoring information as
13 outlined in Interrogatory Questions 12 (b) and (c).

14 THE CHAIRMAN: If it is available.

15 MR. CASTRILLI: If it is available.
16 Thank you.

17 Q. Mr. Kenrick, can you advise the Board
18 if there are any other fish protected under the
19 Endangered Species Act?

20 MR. KENRICK: A. I would have to look
21 specifically at the Act. Do you have a copy of it?

22 Q. Sorry, you can't be heard, Mr.
23 Kenrick.

24 A. Do you have a copy of the Act?
25 Without looking, I wouldn't know.

1 Q. You don't know. Can you confirm for
2 me there are other endangered fish under COSEWIC?

3 A. I believe so, yes.

4 Q. Would you accept, subject to
5 verification, there are no other fish listed under the
6 Endangered Species Act of Ontario?

7 A. No, there none.

8 Q. Thank you. Sorry, and you confirmed
9 for me that are other endangered fish under COSEWIC; is
10 that right?

11 THE CHAIRMAN: Well, that is listed on
12 Exhibit 238, is it not?

13 MR. CASTRILLI: Right. Mr. Chairman,
14 what Exhibit 238 doesn't provide for us is a breakdown
15 by way by province and my question to Mr. Kenrick is:

16 Q. Are there other fish listed on
17 Exhibit 238 that are found in Ontario?

18 MR. KENRICK: A. On the Ontario list I
19 am aware that there are fish under the category of
20 rare, there are fish under the category of threatened,
21 we have discussed aurora char under endangered, there
22 are two species listed under extirpated and two under
23 extinct.

24 Q. And is my general understanding that
25 this will be dealt with under Panel 7 correct?

1 A. What general area will be dealt with
2 by Panel 7?

3 Q. Fish; rare, endangered, and
4 threatened fish.

5 MR. FREIDIN: Again, could you give an
6 idea of the type of information you would want.

7 MR. CASTRILLI: Well, let me just ask:
8 Is there someone who can speak to the issue in Panel 7,
9 generally?

10 MR. FREIDIN: Yes.

11 MR. KENRICK: Yes.

12 MR. CASTRILLI: Thank you.

13 Q. Now, Mr. Kenrick, you have testified
14 generally, that the timber industry contributes
15 significantly to the roads infrastructure in the
16 province; is that correct?

17 MR. KENRICK: A. That's correct.

18 Q. Now, we asked you generally in our
19 Interrogatory Question 14 - Mr. Chairman, this is
20 Exhibit 213 - what the industry's monetary contribution
21 to roads was in 1986/87 and what the Crown's was and
22 you go on to indicate both in Exhibit 213 and also in
23 Exhibit 212, which was an answer to a question posed by
24 the Northern Ontario Tourist Outfitters Association...

25 A. 13 or 14?

1 Q. Exhibit 212 is NOTOA's Question 4, my
2 Exhibit 213 -- excuse me, Exhibit 213 is my Question
3 14. Both of these were introduced by Mr. Freidin
4 during chief. Sorry, do you have both those exhibits?

5 A. Yes I do.

6 Q. Your answer to our question and a
7 substantially similar one posed by NOTOA was that you
8 do not know what the industry's financial contribution
9 was; is that correct?

10 A. That's correct. The source document
11 I used was the annual statistics and that captures the
12 Crown's contribution towards those types of roads.

13 Q. That's right. Do you know what the
14 Crown's contribution is; you don't know what the
15 industry's contribution is?

16 A. That's correct.

17 Q. Would you agree that the Ministry is,
18 therefore, not in a position to conclude that the
19 industry's contribution was significant since you don't
20 in fact know what it was?

21 A. No, no more than I don't think I
22 would agree that wildlife is a significant value in
23 Ontario because I can't put a precise number on it.

24 I think the observation given we know, in
25 general sense, the volume of road that is built across

1 the north and we know what we pay for - there is some
2 expensive road building out there that we don't pay
3 for - I expect the word significant is still valid.

4 Q. Let me ask you this, Mr. Kenrick:
5 Looking at page 88 of your evidence would you agree
6 with me that, and we are looking at the sentence which
7 begins: "In a single year..." Do you have that page?

8 A. 88 of my witness statement?

9 Q. Yes.

10 A. Yes.

11 Q. You say:

12 "In a single year the timber industry
13 either directly or indirectly through
14 Crown work programs contributes
15 significantly to the roads infrastructure
16 in the province."

17 Now, you have already answered you don't
18 know what the numbers are, so would it be fair to say
19 that it would be more accurate to read that sentence
20 without the word significant in it?

21 A. No, I wouldn't. The sentence there
22 refers to both that which is built by the industry and
23 that -- the reference to either directly or indirectly
24 through Crown work programs. I would leave the word
25 significantly in there. It refers to a dollar figure.

1 Q. Which you don't know for the timber
2 industry; is that right?

3 A. But I know the portion that is done
4 jointly is in excess of 40-million and I would agree
5 that is significant.

6 Q. But you don't know what proportion
7 that 40-million is Crown versus industry; isn't that
8 right? If you did you could have answered the
9 interrogatory.

10 A. That's correct. None of the
11 40-million is strictly industry, that is crown
12 expenditures.

13 Q. That's right. So I am asking you,
14 isn't the sentence more accurate if you remove the word
15 significantly since you don't know what the proportion
16 is that is contributed by industry?

17 You were prepared in fact before to
18 remove the word significantly from a quote I put to you
19 on wildlife because you didn't know what the numbers
20 were. Why are you unprepared to remove the word
21 significantly in this paragraph since you don't know
22 the numbers here either?

23 A. My understanding is the word
24 significantly refers to -- also includes the reference
25 to the \$40-million.

1 THE CHAIRMAN: Mr. Castrilli, what is the
2 significance of the deleting the word significantly?

3 MR. CASTRILLI: Mr. Chairman, I think the
4 point is fairly self-evident. This witness and indeed
5 the Ministry does not know what contribution, if any,
6 is made by the timber industry with respect to this.

7 THE CHAIRMAN: They have indicated that.

8 MR. CASTRILLI: I am just wondering why,
9 in those circumstances, there is a presumption that the
10 contribution of industry is significant or otherwise.

11 MR. KENRICK: I could not...

12 THE CHAIRMAN: Could you live with the
13 word significant out of there?

14 MR. KENRICK: Okay, except in the
15 sentence that it was used in it was not only referring
16 to the contribution of the industry, but given the
17 context --

18 THE CHAIRMAN: If it wasn't for the
19 industry, you could live with the word significantly
20 out of there?

21 MR. KENRICK: Yes.

22 THE CHAIRMAN: Why don't we move on.

23 MR. CASTRILLI: You have just removed
24 five minutes of my cross. Thank you.

25 MR. FREIDIN: You should have told him

1 that before you asked the question.

2 MR. CASTRILLI: Q. Let's talk about
3 provincial parks, Mr. Kenrick. Your testimony has been
4 that approximately 6.3-million hectares or 6 per cent
5 of the province's land and water is included in the
6 provincial parks system; is that right?

7 MR. KENRICK: A. That's correct.

8 Q. And if we look at Figure 24 it is on
9 page 94.

10 A. Yes.

11 Q. You note there the distribution of
12 the 270 parks in the system; is that right?

13 A. That's correct.

14 Q. Can you confirm for me that Polar
15 Bear Provincial Park is outside the area of the
16 undertaking?

17 A. Yes.

18 Q. Can you also confirm for me that
19 Polar Bear Provincial Park is approximately 2.4-million
20 hectares?

21 A. That's correct.

22 Q. Now, you have also previously
23 indicated that about 3 per cent of the area of the
24 undertaking is in the provincial park system,
25 approximately 15,000 square kilometres; is that right?

1 It was an answer you gave to one of our
2 interrogatories.

3 A. I believe so.

4 Q. Does that figure of 15,550 square
5 kilometres include land and water?

6 A. My understanding is yes and it is the
7 area in regulation that is referred to there.

8 Q. How much of the 3 per cent is water?

9 A. I don't know.

10 Q. Sorry, your answer is?

11 A. I don't know.

12 Q. You don't know. Now, I understand
13 generally that provincial park objectives include
14 protection, recreation, heritage appreciation, and
15 tourism; is that right?

16 A. That's correct.

17 Q. And natural environment parks are
18 meant to contribute achievement of all four of those
19 objectives; is that right?

20 A. That's correct.

21 Q. And I also understand that generally
22 commercial forest operations will not be permitted in
23 natural environment parks; is that right?

24 A. Generally, there being two
25 exceptions.

1 Q. That's right. Commerical timber
2 harvesting is permitted in Algonquin and Lake Superior
3 Provincial Parks; is that right?

4 A. That's correct.

5 Q. Over what percentage of those two
6 provincial parks are timber management operations
7 permitted?

8 A. I don't know a detailed answer to
9 that.

10 Q. Can you advise who would and whether
11 he will be testifying? It is really a question of Mr.
12 Freidin?

13 THE CHAIRMAN: Coming close to an answer,
14 Mr. Freidin?

15 MR. FREIDIN: The question was over what
16 percentage of those provincial parks...

17 MR. CASTRILLI: Of those two provincial
18 parks are timber management operations permitted.

19 MR. FREIDIN: We will get you an answer
20 to that.

21 MR. CASTRILLI: Okay.

22 Q. Now, Mr. Kenrick, would you accept
23 subject to verification that Algonquin Provincial Park
24 is approximately 765,345 hectares?

25 A. Yes, approximately.

1 Q. And would you accept, subject to
2 verification, that the total area of park land in
3 Algonquin region that is devoted to provincial parks is
4 approximately 780,868 hectares?

5 A. For all classes of parks in the
6 Algonquin region, is that your question?

7 Q. Would you accept that number subject
8 to verification?

9 A. Yes, I would refer you to Figure 25
10 in the witness package, total area is 816,822.

11 THE CHAIRMAN: Would you speak up,
12 please, Mr. Kenrick.

13 MR. KENRICK: Figure 25 on page 96 of my
14 witness package shows a total area in provincial parks
15 in Algonquin region at 816,822 hectares.

16 MR. CASTRILLI: Q. Okay. Now, these
17 numbers I note is a May, 1988 number there. Is that --
18 what is that number or what is that date; is that date
19 for this figure alone?

20 MR. KENRICK: A. I am not sure I
21 understand your question.

22 Q. My version of your witness statement
23 has a May, '88 date to it. Is that meant to include
24 the province's announcement of May, 1988?

25 A. Yes, it does. That table was

1 corrected for that.

2 Q. Okay, thank you. Mr. Kenrick, can I
3 ask you to provide to us the most up-to-date zoning map
4 at the scale of 1:100,000 for Lake Superior Provincial
5 Park?

6 A. I assume that can be done relatively
7 easy except the scale may be a problem. I am not
8 sure -- it is probably a printed map and I am not sure
9 what scale it comes in.

10 Q. Well, if one exists at the scale of
11 1:100,000, would you make that available?

12 A. I believe so, yes.

13 Q. Thank you. Turn your attention to
14 page 295 of your evidence.

15 A. I am sorry, the page number?

16 Q. Page 295.

17 A. 295.

18 Q. That is the press release. The
19 second full paragraph on that page you state:

20 Logging will only be permitted to
21 continue in Algonquin and Lake Superior
22 Provincial Parks but under the most
23 stringent operating rules."

24 Can you advise the Board what most
25 stringent operating rules are being referred to there?

1 A. I am not aware of the specifics of
2 it. I know that the forest management plan that guides
3 the operations undergoes scrutiny relative to the parks
4 management plan and I would assume that things that
5 aren't consistent with the parks objectives in those
6 two cases wouldn't be permitted in the park.

7 The specific operating rules for one
8 specific park in the province of Ontario, I couldn't
9 address that level of detail.

10 Q. Who could or who will?

11 A. I guess I am not sure.

12 MR. FREIDIN: We are not calling anybody
13 to give that evidence.

14 MR. CASTRILLI: Q. I am having a little
15 difficulty with this. It states in that paragraph that
16 there are most stringent operating rules that apply to
17 Lake Superior Provincial Park and Algonquin Provincial
18 Park. Now, I mean I could simply ask if you could
19 provide me with those stringent operating rules; could
20 you do that?

21 MR. FREIDIN: I think the witness just
22 gave the answer. He indicated that in a provincial
23 park where timber operations are permitted there are
24 stringent operating rules means that the timber
25 management plan undergoes scrutiny, sort of, in

1 comparison as against the parks management plan.

2 In addition to that, many of the timber
3 management plans which are approved in those provincial
4 parks have to comply with and obtain the approval that
5 all timber management plans in the province ought to
6 have. So those are the rules of the game, if I might
7 put it that way.

8 MR. CASTRILLI: Well, let me put the
9 question to you this way.

10 MR. FREIDIN: I don't think we want to
11 have the assessment turn out to be an environmental
12 assessment into the management of timber in a
13 particular location in the province.

14 MR. CASTRILLI: I don't understand that
15 answer. If Mr. Freidin didn't want to deal with this
16 issue he shouldn't have put pages 294 to 96 in his
17 witness statement. Having done that, he has got to
18 live with the fact that somebody might actually ask
19 questions about it.

20 Q. Now, Mr. Kenrick, is it your position
21 that these two parks are a little more than two more
22 timber management units to the Ministry of Natural
23 Resources?

24 MR. KENRICK: A. No.

25 Q. Well, what are the operating rules

1 for logging that apply to these two parks before this
2 announcement that make them different from what goes on
3 in other timber management plans?

4 MR. FREIDIN: There is nothing -- Mr.
5 Chairman, you are going to have to look at timber
6 management plans for a particular park to find out what
7 in fact the operating rules are.

8 MR. CASTRILLI: And if I ask for those,
9 would I get them?

10 MR. FREIDIN: You want to see the
11 operating plan for one of the -- for the Algonquin
12 Park, the logging activities there?

13 MR. CASTRILLI: For both Lake Superior
14 and Algonquin so that my people can make an assessment
15 about what is or isn't more stringent about what goes
16 on there, this witness statement having indicated
17 something does go on there that is more stringent.

18 THE CHAIRMAN: Are those plans --

19 MR. FREIDIN: Wait a minute. That is
20 your interpretation, Mr. Castrilli. Where does it say
21 that the requirements in provincial parks are more
22 stringent or the message was intended to be more
23 stringent than elsewhere?

24 MR. CASTRILLI: I thought that was your
25 witness' evidence just now. I also asked him are these

1 two parks a little more than two more timber management
2 plans -- two more timber management units.

3 Q. Now, either the Ministry is saying
4 that there are more stringent operating rulings that
5 apply to the timber management units that constitute
6 these two parks above and beyond normal timber
7 management units, or these two provincial parks are no
8 more than two more timber management units; which is
9 it?

10 MR. KENRICK: A. I guess the distinction
11 there is that the approval and review of a forest
12 management plan in one of those two parks also has to
13 come under the scrutiny of the requirements of the park
14 management plan. That is where it becomes not just two
15 other pieces of real estate.

16 We are dealing with a piece of real
17 estate inside provincial parks which have their own
18 plan, which have protection objectives that they wish
19 to meet within the park system. In that regard, it is
20 distinctive.

21 Q. Well, it should be a very simple
22 matter and not one that requires five minutes of
23 discussion to provide me with the park management
24 plans, that is where the more stringent rules exist; is
25 that right?

1 MR. FREIDIN: We can make those available
2 for your review, Mr. Castrilli.

3 MR. CASTRILLI: Thank you.

4 Q. Now, returning to Exhibit 233, our
5 Interrogatory Question 17. We asked you firstly about
6 how many ANSIs are now - ANSIs being areas of natural
7 and scientific interest - are now identified within the
8 area of the undertaking and your answer was 89.

9 Now, that is existing ANSIs; is that
10 correct, Mr. Kenrick?

11 MR. KENRICK: A. 89 of the 564 that are
12 currently designated ANSIs in the province, that's
13 correct.

14 Q. Okay, thank you.

15 A. It is not part of the 140.

16 Q. Now, it is my understanding that
17 provincial parks are regulated under the Provincial
18 Parks Act. Can you confirm for me that ANSIs are not
19 regulated?

20 A. That's correct, but some significant
21 ANSIs may be included in the provincial parks system.
22 I know in the region that I came from at the time of
23 the district land use guideline exercise we took some
24 of the earth science features that normally would have
25 been ANSIs and made them major reserves in the

1 provincial parks system.

2 Q. How are ANSIs protected on Crown land
3 in the area of the undertaking that are not within
4 provincial park boundaries?

5 A. In the timber management planning
6 process, or generally?

7 Q. Well, on Crown land that might be
8 subject to timber management operations; how are ANSIs
9 protected?

10 A. First of all, they are identified in
11 our data bank as we know the location, generally there
12 is a management statement written for them in terms of
13 outlining the size, the location, the values that
14 generated the ANSI in the first place.

15 Q. Sorry, what is a management
16 statement?

17 A. A description of what the interest
18 was that caused it to be an ANSI in the first place.

19 Q. So that would be a separate document
20 from the timber management plan; is that right?

21 A. Yes, it is a piece of information.
22 It is the documentation of the ANSI in the first place.

23 Q. Okay, thank you. Sorry, proceed.

24 A. Having that information, it is a
25 piece of input we would use in timber management

1 planning. In my experience most times where forestry
2 activities were being considered in the area of an
3 ANSI, generally the ANSI became an area of concern and
4 in many cases was dealt with as a reserve.

5 Q. So your testimony is most ANSIs would
6 end up being protected in a timber management plan
7 process by being designated as reserve areas?

8 A. They would be dealt with through the
9 normal area of concern process which I understand will
10 be dealt with in a little more detail later, but one of
11 the options there, in addition to normal forestry
12 operations or modified operations is reserve and, in my
13 experience, most ANSIs have been dealt with as
14 reserves.

15 Q. How many ANSIs, since their initial
16 identification, have been adversely impacted by timber
17 management operations?

18 A. Was that one of the questions that
19 you submitted an interrogatory on?

20 Q. No, that wouldn't be me.

21 A. If I just may take a look through
22 here, I think it was a question from somebody.

23 Q. It may well have been a question from
24 somebody, it wasn't me. Mr. Kenrick, I believe you are
25 referring to a question asked by Mosquin Bio

1 Information Limited which is their Interrogatory
2 Question 10.

3 Their Question 10 (d) asked how many
4 ANSIs have been degraded or destroyed in southern
5 Ontario due to private developments, agricultural
6 activities, et cetera, and you gave an answer that is
7 on the following page.

8 I am asking about timber management
9 operations, the subject matter of this hearing and do
10 you know the answer to the question?

11 A. I am not aware of a designated ANSI
12 that has been adversely affected by forest management
13 activities.

14 Q. Are status reports regularly prepared
15 on the condition of ANSIs?

16 A. There is a procedure that is being
17 developed now which is referred to as the Registry
18 System and that will be a method of monitoring the
19 status of ANSIs. I don't believe it is in place now,
20 it is being developed. That will do that.

21 Q. When is that system supposed to come
22 on stream?

23 A. I believe the Parks and Recreation
24 Branch is working on it now, but I don't know when it
25 will be completed.

1 Q. Can you confirm for me, Mr. Kenrick,
2 that in 1987 the Minister of Natural Resources made a
3 commitment to spend \$2.5-million over five years for
4 inventory and mapping work for ANSIs?

5 A. I know there was a commitment made.
6 I will take your word for the amount of dollars.

7 Q. Your understanding was -- I am sorry?

8 A. I don't recall the specific amount of
9 money. I understand there was some commitment.

10 Q. You understand there was a
11 commitment?

12 A. Yes.

13 Q. Your answer is yes?

14 A. Yes.

15 Q. Can you advise the Board how much
16 money was spent in fiscal year 1987/88 arising out of
17 the commitment?

18 A. No.

19 Q. You don't know?

20 A. I don't know.

21 Q. Is that information you could readily
22 obtain?

23 A. I don't know.

24 Q. Could you make the relevant inquiries
25 and so advise?

1 A. Yes.

2 Q. Are you in a position at this time to
3 indicate whether the Ministry of Natural Resources
4 received a budget for the ANSI program in 87/88
5 regardless of what the amount was?

6 A. I don't know.

7 Q. You don't know.

8 A. No.

9 Q. Can you advise the Board what work
10 was done in the area of the undertaking with respect to
11 ANSIs in fiscal year 1987/88?

12 A. That level of detail, again I don't
13 know. I believe that all of the -- I'll just check
14 through. The results of all of the life science and
15 earth science inventories that have been done up to
16 date is one of the pieces of information which was
17 submitted with Panel 7.

18 Q. Sorry. So Panel 7 can answer that
19 question?

20 A. I believe so.

21 MR. FREIDIN: You mean the amount of work
22 done?

23 MR. CASTRILLI: Well, how many ANSIs were
24 designated in the area of the undertaking in fiscal
25 year 87/88?

1 MR. FREIDIN: Yes.

2 MR. CASTRILLI: That would be Panel 7?

3 MR. FREIDIN: Panel 7 can deal with that.

4 MR. CASTRILLI: Fine.

5 MR. FREIDIN: My information is the
6 evidence will be none in that year.

7 MR. CASTRILLI: That is funny, that was
8 my understanding also.

9 MR. FREIDIN: It shouldn't be funny, Mr.
10 Castrilli.

11 MR. CASTRILLI: It is not funny, Mr.
12 Freidin.

13 Q. How much money has been allocated in
14 fiscal year 88/89 arising from the Minister's
15 commitment, Mr. Kenrick; do you know?

16 MR. KENRICK: A. I don't know.

17 MR. FREIDIN: Well, Mr. Chairman, I don't
18 know where this is all getting us.

19 MR. CASTRILLI: With great respect...

20 MR. FREIDIN: Well, just wait a minute,
21 Mr. Castrilli. How much money is actually spent on the
22 specific ANSIs, in my submission, I don't see the
23 relevance of that.

24 If he wants to know whether timber
25 management activities are going to impinge upon those

1 ANSIs or whether there is a process being put in place
2 or in place to ensure that timber management activities
3 don't have detrimental effects on those things, that is
4 okay.

5 But do we really have to go through how
6 much money the Ministry may or may not have spent on
7 something like this particular program or part of a
8 program and every other one that the Ministry deals
9 with. Somewhere that we have got to draw the line. I
10 don't know how far we go on it.

11 MR. CASTRILLI: Mr. Chairman, I take
12 great exception to Mr. Freidin even standing up to
13 raise such an incredible objection.

14 This matter has been put into evidence by
15 Mr. Freidin in this panel and again in Panel 7 and I am
16 not prepared to simply accept at face value the
17 evidence that has been put by the Ministry in its
18 witness statement. I am entitled to ask questions such
19 as what is the budget for actually identifying and
20 mapping ANSIs and not simply accept the fact that there
21 maybe "x" number out there somewhere.

22 That is not the function of
23 cross-examination.

24 THE CHAIRMAN: All right. Mr. Castrilli,
25 I do not think the Board is prepared to deal with each

1 and every question raised about each and every
2 statement or set of words set forth in any of the
3 documentation that comes before this hearing, it is not
4 just a function of your having the right to
5 cross-examination on every single word that is raised
6 in evidence either directly or by way of implications
7 or in any of the collateral or supplementary
8 documentation.

9 The Board has defined, as best it can,
10 the matters which it is considering and upon which it
11 will be rendering a decision and some of the evidence
12 before it is by way of background, some of the evidence
13 before it is by way of better illustrating what the
14 Ministry has done in the past, and some of it is not
15 necessarily relevant to the decision which will be
16 rendered by this Board several months from now and,
17 therefore, you will be required to show what relevance
18 particular figures may or may not have to what the
19 Board is considering in terms of the activities that
20 the Ministry is purporting to carry out and how those
21 activities will affect the environment either
22 positively or negatively.

23 MR. CASTRILLI: Mr. Chairman, what I
24 propose to do is simply ask Mr. Kenrick a few more
25 questions and then I am going to speak to the matter

1 that you raise. .

2 THE CHAIRMAN: Very well.

3 MR. CASTRILLI: Since there may be some
4 uncertainties floating about as to the importance of
5 ANSIs.

6 THE CHAIRMAN: The problem the Board is
7 having is that there is more evidence before this Board
8 than directly relates to the questions that must be
9 decided by this Board and the mere fact that some words
10 are contained within a witness statement, unless they
11 bear some relevancy to the matters which the Board is
12 going to be considering, then the cross-examination is
13 going to have to be limited to some extent.

14 But put your further two questions and
15 then we can come back to this, if you so wish.

16 MR. CASTRILLI: Q. Mr. Kenrick, would
17 you agree that these ANSI areas can include wetland
18 areas.

19 MR. KENRICK: A. Yes.

20 Q. Would you also agree that ANSI areas
21 can include habitat of rare and endangered species?

22 A. Yes.

23 MR. CASTRILLI: Now, Mr. Chairman, the
24 reason why I am concerned about the issue and it is of
25 critical concern to my clients is that it is the

1 Ministry's own material at least states areas of
2 natural and scientific interest are important for a
3 variety of reasons, including two of the areas that Mr.
4 Kenrick has just outlined such as protection -- well,
5 exist co-extensive with wetland areas and habitat for
6 rare and endangered species.

7 Now, to the extent they also exist in
8 areas where timber management operations takes place,
9 it certainly is incumbent, in my view, for the Ministry
10 to be able to demonstrate the nature of its commitment
11 to identifying, mapping and protecting ANSIs.

12 One way to determine the level of that
13 commitment is to determine how much money they are even
14 spending on identifying them. And I think in that
15 sense the questions are entirely relevant. You cannot
16 protect what you don't know exists or the location of
17 where it exists.

18 THE CHAIRMAN: All right. And in that
19 sense, the questions relating to the expenditure by the
20 Ministry are relevant but in future, Mr. Castrilli, I
21 think when there is an objection raised to a particular
22 question regarding its relevancy, I think it would save
23 a lot of time if you would indicate what the relevancy
24 is so that the Board can make a specific ruling rather
25 than just indicating it is raised in the evidence of

1 the proponent and, therefore, I can question on
2 anything.

3 It would save a lot of time, I think, if
4 we could look at what the actual relevancy is.

5 MR. CASTRILLI: I accept that, Mr.
6 Chairman. I can certainly do that in future.

7 THE CHAIRMAN: Thank you.

8 MR. CASTRILLI: So that I presume,
9 therefore, I now have an undertaking from Mr. Kenrick
10 to produce figures for fiscal years 87/88 and 88/89
11 with respect to the area of the undertaking, the
12 amounts spent on the ANSI program?

13 MR. KENRICK: Well, I am not sure that
14 the way money is recorded in the Ministry of Natural
15 Resources that we can find the money that was only
16 spent on ANSIs. It may be money in the outdoor
17 recreation program.

18 I am familiar with how ANSI reviews were
19 done when I was in Moosonee and the big charge there
20 would be the cost of a helicopter to go 300 miles
21 farther north to take a look at the site, but I am not
22 sure there was a code in the budget where I could
23 capture the amount of money it took to just to make
24 that one flight.

25 MR. CASTRILLI: Okay. If that is the

1 case, Mr. Chairman, let me suggest that Mr. Kenrick
2 provide the Board with the actual site district reports
3 that were completed for the area of the undertaking
4 with respect to ANSIs in fiscal year 87/88.

5 MR. FREIDIN: Yes.

6 THE CHAIRMAN: Very well.

7 MR. FREIDIN: What was the year again?

8 MR. CASTRILLI: The fiscal year 87/88.

9 MR. KENRICK: Just to clarify one point
10 you made a minute ago, Mr. Castrilli, was that the
11 relevance of ANSIs was there being a means of
12 protecting aquatic habitats and such. It certainly
13 isn't the only means we have, so I am not sure it will
14 give you a total picture of the effort the Ministry
15 puts into protecting those values.

16 MR. CASTRILLI: Mr. Chairman, at this
17 time it is my intention to simply file a number of
18 Ministry documents. I believe they are all guidelines
19 with one exception, which I don't really intend to ask
20 any substantive questions of Mr. Kenrick. These
21 documents will undoubtedly be the subject of
22 examination in subsequent panels and I thought it would
23 be appropriate to file them now.

24 And what I have done is I have divided
25 them up so that they can each be given -- each set can

1 be given a series of exhibit numbers and I will
2 identify what each of the documents are. There should
3 be eight in the package.

4 THE CHAIRMAN: Mr. Castrilli, how do you
5 propose to have these marked.

6 MR. CASTRILLI: One exhibit number per
7 document.

8 THE CHAIRMAN: Per document, okay. Are
9 these all in the same order?

10 MR. CASTRILLI: Yes, they are, but I will
11 tell you which ones they are as soon as they come up.

12 THE CHAIRMAN: All right.

13 Starting off with the first one, it will
14 be Exhibit No. 243 and continuing consecutively for the
15 eight of them and perhaps so we get it all straight for
16 the record Mr. Castrilli will announce the title of
17 each one.

18 MR. CASTRILLI: My last exhibit number
19 was Exhibit 242, the blue document, Importance of
20 Wildlife to Canadians.

21 THE CHAIRMAN: That's correct.

22 MR. CASTRILLI: So that Exhibit 243 then
23 is Habitat Management Guidelines for Waterfowl in
24 Ontario and the sub-heading is For Use in Timber
25 Management.

3 MR. CASTRILLI: The next exhibit would be
4 Exhibit 244, Habitat Management Guidelines for
5 Cavity-nesting Birds in Ontario. And that was Exhibit
6 244.

9 MR. CASTRILLI: The next document is
10 Habitat Management Guidelines for Warblers of Ontario's
11 Northern Coniferous Forests, Mixed Forests or Southern
12 Hardwood Forests and that will be Exhibit 245.

16 MR. CASTRILLI: The next exhibit, 246,
17 would be Habitat Management Guidelines for Birds of
18 Ontario Wetlands including Marshes, Swamps and Fens or
19 Bogs of Various Types

1 MR. CASTRILLI: The next exhibit, Exhibit
2 247, will be Habitat Management Guidelines for Woodland
3 Caribou.

4 ---EXHIBIT NO. 247: Habitat Management Guidelines for
5 Woodland Caribou.

6 MR. CASTRILLI: The next exhibit, Exhibit
7 248, would be Standards and Guidelines for Deer Habitat
8 Management in Ontario.

9 ---EXHIBIT NO. 248: Standards and Guidelines for Deer
10 Habitat Management in Ontario.

11 MR. CASTRILLI: The next exhibit, 249,
12 would be Guidelines for Providing Furbearer Habitat in
13 Timber Management.

14 ---EXHIBIT NO. 249: Guidelines for Providing Furbearer
15 Habitat in Timber Management.

16 MR. CASTRILLI: And the last exhibit
17 would be Exhibit 250, Trends in the Woodland Caribou -
18 I won't risk the Latin - Population in the Cliff Lake
19 Area of the Dryden District, 1972-78.

20 ---EXHIBIT NO. 250: Trends in the Woodland Caribou
21 Population in the Cliff Lake Area
22 of the Dryden District, 1972-78.

23 MR. CASTRILLI: Mr. Chairman, these are
24 all Ministry of Natural Resources documents.

25 THE CHAIRMAN: Here's an extra caribou
26 one that you might want to use.

1 MR. CASTRILLI: Is someone missing...

2 And I gather, Mr. Kenrick -- or perhaps
3 this is really a question of Mr. Freidin, that the
4 status of each of these guidelines can be spoken to in
5 a subsequent panel and you are going to tell me which
6 panel?

7 MR. FREIDIN: Panel 8.

8 MR. CASTRILLI: Panel 8, thank you.

9 MR. FREIDIN: And just so I understand I
10 guess what I just said, what do you mean by status?

11 MR. CASTRILLI: Oh well, for example, are
12 these drafts or final, for example?

13 MR. FREIDIN: For example, or whether or
14 not they are final.

15 MR. CASTRILLI: That is not the only
16 question I can assure you that will be asked about
17 these documents.

18 MR. FREIDIN: But I want to understand
19 what it is you asked when you asked whether the panel
20 will be dealing with the status.

21 MR. CASTRILLI: Which panel, Mr. Freidin,
22 can speak to the contents of these guidelines?

23 MR. FREIDIN: Panel 8 cannot speak to
24 that. If you are wanting to know how they might be
25 used in timber management planning, I believe Panel 7

1 will have people on it that could perhaps deal with
2 that. As will, I guess, all the panels dealing with
3 effects and Panel 15 as well.

4 MR. CASTRILLI: That is fine. So 7, 10
5 through 15?

6 MR. FREIDIN: Yes.

7 MR. CASTRILLI: Thank you. Mr. Chairman,
8 just one moment's indulgence. I think I might be done.
9 Mr. Chairman, those are my questions, subject to the
10 undertakings.

11 THE CHAIRMAN: Thank you.

12 Mr. Hunter, are you going to require any
13 time to set up?

14 MR. HUNTER: Well, not a great deal, Mr.
15 Chairman, just a few moment perhaps.

16 THE CHAIRMAN: Okay.

17 MR. HUNTER: Does that stand move over
18 here, Mr. Chairman, or can it be moved over?

19 THE CHAIRMAN: It can if you can move the
20 wiring. I don't know.

21 MR. FREIDIN: It is all taped to the
22 floor.

23 THE CHAIRMAN: It is all taped to the
24 floor.

25 MR. HUNTER: Then we will be moving a

1 fair amount of paper around over the course of the next
2 day, so if we could move here, I'm quite happy.

3 MR. CASTRILLI: I am going to move back.

4 MR. HUNTER: Are you. Oh, all right.

5 Perhaps five minutes, sir.

6 THE CHAIRMAN: All right. Why don't we
7 take a short five-minute break.

8 ---Short recess at 3:50 p.m.

9 ---Upon resuming at 4:10 p.m.

10 THE CHAIRMAN: Thank you. Be seated,
11 please.

12 Mr. Hunter?

13 MR. HUNTER: Mr. Chairman, Mrs. Koven,
14 Mr. Martel.

15 Mr. Chairman, perhaps just to set the
16 stage for our cross-examination, I would refer you to
17 Part I of the environmental -- or the Class Assessment
18 at page 7 under Part I and refer you to lines 13
19 through to 36 and I will be trying to root a
20 substantial portion of our cross-examination of Mr.
21 Kenrick and Mr. Crystal with respect to those comments
22 in the Class EA because it is quite obvious at the end
23 of the day and in argument we will be urging you to
24 reject and/or amend those provisions and a substantial
25 portion of our activity in cross and in direct will be

1 aimed at that area in the report.

2 If I might be allowed, Mr. Chairman, Mr.
3 Freidin made or addressed you on September the 6th,
4 1988 when he outlined to you the purposes of his
5 examination-in-chief of Mr. Kenrick and Mr. Crystal
6 and his opening statements are found at page 7186 to
7 7199 of the volume indicated September 6th, 1988.

8 And, if I might be allowed a few moments
9 to respond to his comments and set the context for our
10 cross-examination, I hope it will facilitate the
11 activity.

12 Furthermore, sir, I feel quite compelled
13 to address comments that are on the record in the
14 transcript at 7909 to 7910 and these were comments by
15 Mr. Colborne and Mr. Crystal. I believe that there is
16 a potential for substantial misunderstanding and I
17 would ask you that I address those as well.

18 Mr. Chairman, I won't make any comments
19 at this time on Mr. Freidin's reference to the evidence
20 of Mr. Kenrick. I will cross-examine Mr. Kenrick on
21 statements made by Mr. Freidin. I would, however, like
22 to make a few comments about the nature of Mr.
23 Freidin's comments with respect to evidence on native
24 concerns and Mr. Crystal's evidence and principally I
25 would refer you to 7191 at lines 2 to 11.

1 THE CHAIRMAN: Well, Mr. Hunter, we don't
2 have the transcripts before us. Are we going to need
3 these?

4 MR. HUNTER: Well, no. I think I am just
5 giving you the references. My comments, I will quote
6 and I will keep the quotes down to a bare minimum and
7 hope that it is not viewed that I am taking anything
8 out of context.

9 THE CHAIRMAN: Thank you.

10 MR. HUNTER: First, Mr. Freidin has
11 stated that it is quote:

12 "...not possible to isolate one panel
13 to discuss the relationships between
14 timber management and native people
15 without first having at least an
16 understanding of the timber management
17 activities themselves and, as I have
18 said, the planning, the implementation
19 and the monitoring of these activities."

20 I take that statement, Mr. Chairman, to
21 assume, and it is reasonable to interpret that
22 statement, that once evidence has been led on timber
23 management activities that there would then be evidence
24 to -- evidence would be led as to how such activities
25 would impact on native people, their communities and

1 their interests because such activities can only be
2 properly understood, as stated by Mr. Freidin, after we
3 understand the timber management process.

4 So I am presuming that at some point
5 evidence will be led which would identify impacts on
6 native communities. I don't think, Mr. Chairman, that
7 that is an unreasonable assumption to make in terms of
8 logic. Accordingly, it would be of some interest to
9 know why, at this stage in the hearing, MNR is leading
10 what I understand to be its major panel on native
11 interests or native concerns because we have not had
12 the major panels on timber management activity.

13 I suggest, Mr. Chairman, that there is an
14 answer to what appears to be a logical problem and I
15 believe that that answer is found in page 7 in the
16 Class Assessment, I believe it is found in the evidence
17 of Mr. Kenrick, and I believe to a certain degree in
18 the evidence of Mr. Crystal.

19 And I think that that point is very
20 simple: MNR has adopted a position which says that we
21 will not address impacts on native interests because of
22 a lack of clarity with respect to treaty matters. The
23 converse of that is if you do not show a treaty
24 interest with clarity, then my concern is that MNR is
25 saying that native people then do not have a

1 substantive interest with respect to issues in terms of
2 the management of land and timber that is different
3 from non-natives.

4 I draw again your attention to page 7 of
5 the Class EA at lines 25 to 36 and I won't quote them
6 all for you, but simply to say:

7 "Since some of these very basic issues
8 are, as yet, unresolved it is not
9 possible to define and assess the
10 potential impacts of timber management
11 activities on aboriginal or treaty rights
12 in this Class Environmental Assessment."

13 Then they go on to say:

14 "That potential effects of timber
15 management on the actual pursuits of
16 native peoples are amenable to resolution
17 at the local level during the planning of
18 timber management operation."

19 And it will be very much around this
20 statement that we will be cross-examining Mr. Kenrick.

21 In our view, Mr. Chairman, MNR has stated
22 quite clearly that unless you can show us that there is
23 a treaty right then we will not deal with native
24 community concerns in terms of substantive or
25 procedural requirements to be applied at the general

1 level, meaning at the level of the Class Assessment,
2 which would establish a framework for directing the
3 district and local managers.

4 While we would like to think that this
5 hearing is about trees and the environment, we are of
6 the view that this hearing is also about
7 decision-making, who makes decisions, how those
8 decisions are made and where they are made and we are
9 quite clearly substantially interested in that
10 decision-making process and how it affects native
11 people.

12 Mr. Freidin's comments at 7191 I think
13 goes to the heart of the Ministry's position. He
14 states:

15 "If you are going to be talking about the
16 environment affected and you are going to
17 be talking about native people, could you
18 tell us how timber management activities
19 have an effect on treaty and aboriginal
20 rights."

21 Further he states:

22 "It is the Ministry's position that this
23 question cannot be answered without a
24 clear definition of those treaty and
25 aboriginal rights."

1 He then goes on to state that such rights
2 are undefined.

3 I would suggest to you, Mr. Chairman,
4 there is absolutely no difference between that which
5 Mr. Freidin has stated in terms of introducing the
6 evidence to be led by his witnesses and the position
7 that is established at page 7 of the undertaking.

8 I draw your attention to Mr. Freidin's
9 comments at 7192 and 7193 of Volume XLIII. I do not
10 think it is unfair that the suggestion that is made
11 that the Ministry has been put between a rock and a
12 hard place because of purported differences between
13 myself and Mr. Colborne; that is, that the Ministry is
14 required to respond to treaty interests because one of
15 the parties has indicated that that is an interest.

16 I do not know of the relationship between
17 Treaty 3 and the Ministry with respect to the
18 development of this document, that this document was
19 prepared in 1987, there certainly is nothing on the
20 record from my clients to insist the treaty issues be
21 dealt with, I do not know whether or not such comments
22 were made by Treaty 3.

23 In other words, Mr. Chairman, it seems to
24 me that the position that Mr. Freidin is responding to
25 in his statement is the fact that the decision had

1 already been made to insert comments in the Class
2 Assessment in 1987 and, therefore, some assertion or
3 allusion that MNR is leading evidence in response to
4 these matters because of comments by myself and/or Mr.
5 Colborne, I don't think wash particularly well.

6 THE CHAIRMAN: I am not really following,
7 unfortunately, the points that you have just alluded
8 to. I do not know if my colleagues are having the same
9 problem, but could you try, Mr. Hunter just restating
10 what the Ministry's problem is. I take it that you are
11 indicating that some of these statements on page 7 have
12 been inserted recently.

13 MR. HUNTER: No, no. I am saying the
14 comments on page 7 were inserted some time in 1987.
15 Mr. Freidin seems to be suggesting that they are
16 responding; that is, his Ministry is responding to this
17 issue of treaty rights meaning they are leading
18 evidence in relationship to treated rights because of
19 comments made by Mr. Colborne or myself and I
20 specifically refer you to 7192:

21 "Now, dealing with the question: Why are
22 we dealing with treaty and aboriginal
23 rights, I would also want to refer you to
24 two portions of the transcript from
25 either the first day or second day, page

1 216 where I will refer to opening remarks
2 by Mr. Hunter at 252, where I will refer
3 to the submissions made by Mr. Colborne."

4 THE CHAIRMAN: Okay. I guess what I am
5 having a little difficulty with is how does this
6 statement get in here in 1987 when the comments that
7 you or Mr. Colborne I assume refer to were made at the
8 preliminaries which were in 1988?

9 MR. HUNTER: I don't think, Mr. Chairman,
10 that there is any -- there is no relationship between
11 the comments made by myself and Mr. Colborne--

12 THE CHAIRMAN: To what is on page 7?

13 MR. HUNTER: --to what's on page 7. I am
14 responding to Mr. Freidin's comment: "Why are we
15 dealing with treaty and aboriginal rights." I am
16 presuming with respect to the evidence of Mr. Crystal.
17 That is the only point I am trying to make.

18 I am simply suggesting that there is a
19 suggestion that the Ministry is responding to something
20 that we said. My suggestion to you, sir, is that is
21 not the case, they are responding because they had made
22 decisions already to address or deal with treaty
23 rights.

24 THE CHAIRMAN: Back in '87?

25 MR. HUNTER: Back in '87.

1 THE CHAIRMAN: Okay, thank you.

2 MR. HUNTER: It will be our submissions,
3 sir, that the Ministry is using treaty issues as a very
4 convenient way not to deal with native concerns. We
5 feel quite strongly that the clarity or lack of clarity
6 of treaty issues is not an issue which we seek to
7 address in this hearing, nor will we be seeking that
8 you make any decisions with respect to those matters.

9 What we do feel very strongly about is
10 that there is a suggestion that you will be left with a
11 misunderstanding of treaty interests or treaty rights.
12 That is clearly identified in Mr. Crystal's evidence
13 and in Mr. Freidin's comments to you. We feel that it
14 is important that other views on the treaty be left
15 with you, if for no other purpose than public
16 education, but we will be seeking to urge you to deal
17 directly with the question of whether or not the
18 Ministry is using treaty issues as a convenient vehicle
19 to avoid dealing with matters in this assessment and
20 its effect on the environment and on native interests.

21 Those are my only comments with respect
22 to that subject. I would, however, draw your
23 attention, as I indicated, to page 7909 of September
24 15th, 1988. I appreciate you do not have the
25 transcript, perhaps my friend wishes to -- at page

1 7909, line 3:

2 "Mr. Colborne: Q. Would you agree, Mr.
3 Crystal that the situation of Mr.
4 Hunter's clients is that their territory
5 has not been occupied..."

7 "...by the forest industry, whereas my
8 client's territory has been occupied by
9 the forest industry?"

10 Mr. Colborne then goes on to state at
11 page 7910, sorry I will have to refer you to give you
12 the full context. At the bottom of 7909 the Chairman
13 states:

14 "While I am not saying it was not proper
15 but what I am saying is, do we have any
16 evidence before us as to whether or not
17 any of the lands covered by - covered
18 is not the right word - but covered by
19 Mr. Hunter's clients are impacted or not
20 impacted by this hearing? I am not sure
21 that we have this kind of information
22 before us at this time."

23 Mr. Colborne says:

24 " I think there is. At least two of the
25 witnesses identified the geographical

1 dividing line between the Treaty 9
2 territory south and certainly several of
3 the witnesses identified the northern
4 extent of the forestry agreements. I am
5 not absolutely certain that a single
6 witness at a particular time said: And
7 one can see that the act of forestry is
8 not generally taking place yet in Treaty
9 9 territory, but one can see that active
10 forestry is obviously taking place in all
11 of Treaty 3."

12 I am not sure how my friend Mr. Freidin
13 wishes to deal with this, but if I could be allowed a
14 minor liberty to just simply attempt to correct that
15 and the Board can take that into weight.

16 The area of Treaty 9 roughly covers this
17 area here. I am being very general.

18 THE CHAIRMAN: Could you delineate it in
19 words for the record, please.

20 MR. HUNTER: It runs north from the
21 height of land, that is it constitutes all of the
22 Ontario Arctic watershed. I believe page 272 - thank
23 you - of the witness statement.

24 MR. FREIDIN: Perhaps, Mr. Hunter, would
25 this be a helpful document?

1 MR. HUNTER: I just thought perhaps Mr.
2 Freidin I would take one shot at it. If it doesn't
3 work, then we will go back to that.

4 MR. FREIDIN: This is a diagram of the
5 watershed and shows where the land starts running from
6 the north.

7 MR. HUNTER: Okay, sure. We will go from
8 that.

9 MR. FREIDIN: Well, that is the height of
10 the land. I believe that is the evidence, that
11 generally is the height of the land. I believe the
12 blue is where the waters run north to Hudson's Bay,
13 page 57 of the panel statement.

14 MR. HUNTER: In general terms, it runs
15 immediately south of these rivers that flow north. So
16 in very general terms, south of Abitibi, moving
17 westerly to Missanabie, north above Nipigon, under Lake
18 St. Joseph, somewhere to the Manitoba border to the
19 west.

20 If I might, Mr. Chairman, again in very
21 general terms point out - if my friend disagrees then
22 he will say so - there is extensive timbering activity
23 in the southern portion of the NAN community, there has
24 been extensive forestry activity in portions of
25 northeastern Ontario in the NAN area, there is

1 timbering activity extensively south of Lake St. Joseph
2 in a portion of what was the original Reed tract
3 through this area down through here (indicating).

4 So the notion that there has not been
5 extensive forestry activity within the Nishnawbe area I
6 believe is incorrect. There are also areas where there
7 is limited activity and there are obviously some areas
8 where there is no activity. Those issues are quite
9 fundamental or those distinctions are quite fundamental
10 to the case that we will be presenting to you.

11 MR. FREIDIN: Just perhaps for the record
12 it is quite clear, Mr. Chairman, the excerpt that led
13 to this discussion and description by Mr. Hunter was
14 the statement by Mr. Colborne not the evidence of any
15 of the witness panels and none of the witnesses in
16 Panel No. 6.

17 THE CHAIRMAN: Thank you.

18 MR. HUNTER: Mr. Chairman, what I am
19 proposing to do is first cross-examine Mr. Kenrick and
20 then cross-examine Mr. Crystal, so I will proceed
21 there.

22 MR. FREIDIN: Mr. Chairman, I am just
23 wondering, just so there is no misunderstanding by Mr.
24 Hunter of what the intention of the Ministry is in
25 relation to the evidence that it is going to call as it

1 relates to native people, perhaps I can address just a
2 couple of his remarks very briefly.

3 THE CHAIRMAN: Do you have any
4 objections, Mr. Hunter?

5 MR. HUNTER: I have no objection.

6 MR. FREIDIN: Well, the first one I
7 understood him to indicate that he understood my
8 remarks as indicating that after all the evidence had
9 been led on the activity there would be another panel
10 to come back to speak specifically to how timber
11 management activities could affect native people. That
12 is not the intent; that is, if that was the impression
13 which he gained from my words, it certainly was not my
14 intent.

15 The intent of my statements were that you
16 can't understand how a timber management activity could
17 affect people without understanding the nature of the
18 activity itself and so within the panels where we
19 describe the specific activities we will be describing
20 the potential effects on the environment, including
21 native people.

22 The other two comments or three comments
23 I would like to make are probably not necessary dealing
24 with what my friend has -- how we are going to address
25 the native issue, but he made a statement: If you

1 don't show a treaty interest then the Indians don't
2 have an interest different than the non-natives.

3 I think the evidence of this panel
4 indicates that quite absent any final resolution of
5 treaty and aboriginal rights that the native people of
6 this province are regarded as having a special interest
7 and Mr. Crystal's evidence went to that matter.

8 In terms of the appearance on page No. 7
9 of the Environmental Assessment Document about
10 basically the Ministry's position as to whether
11 aboriginal and treaty rights were in or not for
12 purposes of this hearing. That particular paragraph
13 was put in there as a result of information and
14 positions taken during the pre-submission consultation
15 period.

16 I can advise you that the evidence which
17 was contemplated being led by the Ministry in relation
18 to aboriginal and treaty rights was somewhat different,
19 the plan was somewhat different before Mr. Colborne got
20 up in the preliminary and indicated his particular view
21 on that matter. So I guess that deals with that.

22 And my client, I think, I can say this
23 quite uncategorically, the Ministry of Natural
24 Resources is not using treaty and aboriginal rights as
25 some means of trying to avoid dealing with the concerns

1 of native people.

2 THE CHAIRMAN: Mr. Hunter?

3 CROSS-EXAMINATION BY MR. HUNTER:

4 Q. Mr. Kenrick, the first set of
5 questions I have --

6 MR. HUNTER: I am not seeking to
7 disqualify Mr. Kenrick, Mr. Chairman, I am simply
8 seeking to understand the nature of his evidence.

9 Q. Are you a planner, sir? Are you a
10 planner?

11 MR. KENRICK: A. Yes, was.

12 Q. Yes was. When were you a planner?

13 A. From 19 -- the eight years preceding
14 1985.

15 Q. So from 19 -- if I work backwards
16 then, from 1978 -- sorry, could you help me again? You
17 were a planner from when? From 19...

18 A. 85.

19 Q. Backwards so 1978.

THE CHAIRMAN: 7 by my calculations.

21 MR. HUNTER: Q. 7, thank you, to
22 nineteen eighty -- sorry.

23 MR. KENRICK: A. Approximately 1976 I
24 was a senior planner in the northern region. Prior to
25 that from '73 to '76 I was a district planner in

1 Temagami.

2 Q. Did you receive any professional
3 training as a planner?

4 A. I did not take an undergraduate
5 degree as a planner. There was some geography in
6 there, history, social sciences, a little bit of
7 economics, a generalist.

8 Q. But you have not been a planner since
9 nineteen eighty -- what date was that you said?

10 A. 1985 I went to Moosonee as district
11 manager.

12 Q. So, therefore, when you prepared this
13 evidence you did not do so as a planner; is that
14 correct?

15 A. That's correct, I was writing this
16 when I was in Moosonee and after that when I was in
17 Cochrane.

18 Q. Were you a member of the Canadian
19 Institute of Planners?

20 A. No.

21 Q. Have you had any scientific training,
22 engineering training, database management training?

23 A. Not formal, no. I believe Mr.
24 Colborne asked all these same questions.

25 Q. Well, I will leave that for your

1 counsel to deal with.

2 Page 7205 of the transcript which I
3 believe is on September the 6th, Mr. Freidin designated
4 you or sought you to be designated as an expert in the
5 collection and use of resource data in resource
6 management planning and in line management.

7 Our interrogatory to you, and I will have
8 to read this, Mr. Chairman, Panel 6 Question 1:

9 "Q. How will Mr. Kenrick be qualified?
10 In what areas of expertise will the
11 Ministry of Natural Resources seek to
12 qualify him?

13 A. Mr. Kenrick will be qualified as an
14 expert in the collection and use of
15 resource data, in resource management
16 planning and in line management."

17 Have you been qualified as an expert in
18 the collection and use of resource data and as a
19 resource management planner and as a line manager or
20 have you been qualified as an expert in the collection
21 and use of data in resource management planning and in
22 line management?

23 A. I am not sure.

24 Q. In effect, have you been qualified as
25 a planner by Mr. Freidin? Is that how Mr. Freidin is

1 seeking to qualify you as a resource management planner
2 or are you being qualified as an expert in the
3 collection and use of resource data in resource
4 management planning?

5 A. If I read lines 20 to 23 at the
6 bottom of 7205 I believe it is the latter.

7 Q. Meaning as an expert in the
8 collection and use of resource data?

9 A. That is how I would read that.

10 Q. So you are not qualified for the
11 purposes of your evidence as a resource management
12 planner; is that correct, sir?

13 A. Mr. Freidin's summary wouldn't
14 suggest that, but I think the 22 years, most of which
15 was working as a planner and, as I explained, I think
16 you will find a little later in that summary there, I
17 consider myself qualified as a resource management
18 planner in spite of not taking a planning course from
19 an accredited university.

20 MR. HUNTER: Can I have some help from
21 the Board, Mr. Chairman, as to what your designation
22 was of Mr. -- or your understanding was of the
23 designation of Mr. Kenrick?

24 THE CHAIRMAN: Just one moment, please.
25 ---Discussion off the record

1 THE CHAIRMAN: Well, Mr. Hunter, we are
2 trying to recollect our comments made at the time of
3 qualifying this witness and, frankly, our notes do not
4 help us a great deal and I do not think the transcript
5 would necessarily help us a great deal because it would
6 be more or less where the commas were put in that would
7 very easily place a different emphasis on the two
8 categories; somebody who was an expert in collection --
9 in the collection and use of resource data in resource
10 management planning, or somebody who is a resource
11 management planner.

12 Having said that, this witness in terms
13 of his curriculum vitae and apparently his actual
14 experience in the Ministry has conducted activities, at
15 least in his mind, which place him in the category as a
16 resource management planner, notwithstanding he does
17 not have a university degree or professional
18 affiliation in that regard and the Board is cognizant
19 of the fact that there is a specific course or courses
20 that would allow somebody graduating from those courses
21 to be referred to as a resource management planner.

22 Having said all of that--

23 MR. HUNTER: I apologize.

24 THE CHAIRMAN: --I think the Board will
25 be considering Mr. Kenrick's evidence in the light of

1 his actual experience coupled with whatever formal
2 training he has had and place the appropriate weight
3 upon his evidence in that light.

4 Now, if a resource management planner is
5 called by other parties who has a particular
6 professional affiliation that is of course different
7 from Mr. Kenrick, we will have to place whatever
8 emphasis or weight upon that evidence and take also
9 into account practical experience affiliated with that
10 professional designation.

11 I do not know if that helps you out very
12 much other than to say, I think we recognize that Mr.
13 Kenrick does not have a professional designation as a
14 resource management planner.

15 MR. HUNTER: I think, Mr. Chairman, I
16 asked Mr. Kenrick if he was a planner and he said
17 essentially, yes/no, that he has not been a planner
18 since 1985.

19 THE CHAIRMAN: Well, I think you will
20 readily agree that if he did not take a university
21 course and he does not belong to the Canadian Institute
22 of Planners, he would not be recognized in a
23 professional capacity as a planner, per se.

24 Having said that, I think his C.V. and
25 Mr. Kenrick himself has indicated that his experience

1 over a great number of years for the Ministry is very
2 much in that field in resource management planning.

3 MR. HUNTER: Thank you, Mr. Chairman.

4 Q. You have been qualified as an expert
5 in the collection and use of resource data, Mr.
6 Kenrick. Would you please help me as to what that
7 means?

8 MR. KENRICK: A. I would refer you back
9 to...

10 Q. I have asked you a question, sir. I
11 have read Mr. Colborne's cross-examination of you. If
12 you wish to adopt statements made in your cross by Mr.
13 Colborne, fine, but I would prefer that you just simply
14 help me by indicating to me what constitutes expertise
15 and your expertise in the collection and use of
16 resource data?

17 A. I believe I previously described that
18 as starting out from 1966 to about '73. I spent
19 summers collecting a whole range of data in this
20 Ministry across most programs, water quality,
21 recreational use, cottage inventory, fisheries
22 inventory as well as archaeological data.

23 Q. Collected the data. What is there--

24 A. I didn't...

25 Q. What is there in your training that

1 gives you the expertise in the interpretation, the
2 management, the use, the direction of that data. I
3 collect stamps, that doesn't necessarily make me a
4 stamp collector or an expert in stamp collecting.

5 A. But after 16 years of collecting
6 stamp, sir, I would assume you know something about
7 stamps.

8 Q. A little bit. So you are saying that
9 you are an expert in the information which you are
10 collecting; is that true?

11 A. I am saying that I understand the
12 information. After 22 years in this Ministry, I
13 understand how to use most of that information to make
14 management decisions.

15 Q. Do you make technical decisions based
16 on that data?

17 A. I make currently management decisions
18 and some of those decisions are based on technical
19 information.

20 Q. And help me with what is a management
21 decision in terms of the information that you obtain or
22 collect?

23 A. Are you looking for the definition of
24 a management decision?

25 Q. Well, you have have been qualified as

1 an expert in line management as well, so I guess I am.
2 I am trying to understand what is an expert in the
3 collection and use of resource data and what is an
4 expert in resource management planning and what is an
5 expert in line management?

6 I can understand the middle one, but I am
7 having trouble with the first one and the third one.

8 A. An expert in the collection of data,
9 is that the first one you are having trouble with?

10 Q. Yes, and the use.

11 A. My answer to that is that I spent a
12 fair amount of time collecting and making myself
13 familiar with the types of databases that the Ministry
14 uses. I then spent a good number of years trying to
15 put together planning options based on the use of that
16 data, and then went on in some other positions to being
17 on the receiving end, if you will, of -- just to go
18 back one step, it is my view that a planner's role is
19 to array options and costs and benefits of various
20 decisions that might be made in front of a manager and
21 that manager will make a decision based on them.

22 I spent a good number of years arraying
23 that type of information in front of managers and then
24 went on to one of the managers that that information
25 was arrayed in front of.

1 Q. Did you ever evaluate the data you
2 collected? You were obtaining biological data, water
3 quality data, a whole range of data. How did you array
4 that data, on what basis did you make decisions as to
5 how that data would then be put in front of a resource
6 manager or a manager?

7 You are not a biologist?

8 A. That's correct. It would depend on
9 the types of survey that was being done at the time.

10 I can remember doing archaeological
11 surveys. It was merely a matter of putting maps and
12 details of what we found in front of archaeologists.
13 Water quality we collected it. But over the course of
14 doing that for a couple of years I understood where the
15 results were significant and where they weren't.
16 Springtime phosphorous counts, for instance, was one of
17 the surveys we did.

18 Q. Did you collect the data yourself?

19 A. Yes.

20 Q. So you were doing water quality
21 samples?

22 A. Yes, with a hat kit out of a book,
23 yes.

24 Q. So when you say you collected data,
25 you did it in the biological area, you actually went

1 out and did water quality surveys yourself; is that
2 correct?

3 A. Yes, as part of a standard lake
4 survey inventory. Total dissolved solids, Cecchi-disk
5 readings all of the elements that one of the subsequent
6 panels will describe as part of a regular lake survey.

7 Q. Did you analyze that information or
8 the data?

9 A. Generally no, we would collect
10 samples.

11 Q. And who would analyze the data?

12 A. The district biologist.

13 Q. Most of the information you obtained
14 either directly or indirectly, was this information
15 that you sought through MNR programs; is that why you
16 were out obtaining this data?

17 A. The illustrations that I use, yes,
18 but later on when we were putting together the
19 background information for Kirkland Lake District, no.
20 The information part of that database was information
21 we collected from other government ministries, Ontario
22 Hydro, Ministry of Agriculture and Food.

23 Q. So you obtained it from other
24 government agencies?

25 A. In some cases, yes.

1 Q. And is it fair to say that the
2 majority of the information in your database is MNR
3 generally?

4 A. That is probably correct.

5 Q. And is it fair to say, sir, that that
6 information is generally within MNR, I am not talking
7 about any other ministries, on a program basis?

8 A. If it is information that is
9 collected by the Ministry, yes, it is collected
10 generally on a program basis.

11 Q. Perhaps you could help me, Mr.
12 Kenrick, and I would go to your witness statement at
13 pages 157 to 160. I'll try to do a little bit better
14 with my numbers this time.

15 Firstly, did you collect personally or
16 did you supervise the collection of any of the data
17 identified as references for your witness statement?

18 A. Did I write any of the documents that
19 are in the witness statement other than the portions of
20 the Strategic Plan for northeastern Ontario which I
21 believe is one of them.

22 Q. So let's do this again. In the
23 references did you collect any of the data that forms
24 the basis for any of these reports, sir? That seems to
25 be fairly straightforward.

1 A. Again I would say no, other than
2 reference 42.

3 Q. Thank you. That is all I am asking.
4 Did you prepare any of these reports other than the one
5 identified at 42?

6 A. Generally, no.

7 Q. Can I take it that generally, no
8 means no, sir?

9 A. The only reason I am hesitating is
10 perhaps when we get into tourism information I took
11 source documents and took portions of them to develop
12 that progression from the \$8-billion provincial picture
13 down to the hunting and fishing lodge industry in the
14 north. But in terms of the documents listed here, I
15 was not the author of any of those documents.

16 Q. So you may have obtained some
17 information for items 40 to 49; is that correct? That
18 is all I am trying to find out.

19 A. Correct.

20 Q. There are 62 items identified. My
21 count may be wrong, Mr. Kenrick, but I have counted
22 approximately 33 of those reference are for MNR
23 reports. I presume those are reports that have been
24 generated through programs; is that correct?

25 A. I believe so.

1 Q. Thank you. There are approximately
2 five -- or eight reports from other government
3 ministries, I won't ask you to determine whether they
4 come through government programs, and there are a
5 number of federal reports as well.

6 Is it fair to say that the references
7 here are substantially based upon MNR database; is that
8 correct?

9 A. A good number of them are, that's
10 correct.

11 Q. Thank you. Are there any references,
12 157 to 160, which would be peer review, scientific
13 literature either inside or outside of government, any
14 scientific journals in Canadian or North American
15 scientific academic documents?

16 A. Some of the information might have
17 been published in the Scientific Journal but I haven't
18 used it here. There isn't a journal listed there.

19 Q. So for the most part the data which
20 you are using as your reference for your witness
21 statement is based upon "government-generated data
22 bases"; is that correct?

23 A. To a large extent. Also includes
24 consultants' work generally for government.

25 Q. Thank you. So, therefore, if you are

1 not within a program area, to a large degree an MNR
2 program area, data will not be picked up; is that
3 correct?

4 A. Well, the original data might not
5 have been generated out of a Ministry of Natural
6 Resources program. If I can draw your attention to
7 reference 28 is a case in point.

8 Because there is not a specific native
9 database inside the Ministry of Natural Resources, we
10 went through the Ontario Native Affairs Directorate and
11 asked them which was the best database to be using and
12 we were directed to reference 28 and we have access to
13 it.

14 Q. But that is the only example where it
15 is not a government-generated database in relationship
16 to MNR; is that correct, sir?

17 A. No. If you want the exceptions here,
18 there are not a lot of them, Banfield Mammals of Canada
19 is not a government-generated document I don't believe.

20 Q. Okay, fine. I would like to know
21 which are the exceptions.

22 A. The reference to the National Fresh
23 Water Fishing Hall of Fame. I am not sure where this
24 is leading, it is not a very long list.

25 MR. FREIDIN: Can you refer to the number

1 of that?

2 MR. KENRICK: 22 is the last one.

3 MR. HUNTER: Q. I am curious, Mr.
4 Kenrick. You indicated in your evidence that MNR did
5 not have a database with respect to Indians in Ontario;
6 is that correct?

7 MR. KENRICK: A. Yes, sir, and had you
8 been here when I was giving my evidence I believe I
9 explained why to that.

10 Q. Well, perhaps you can help me why
11 didn't we or why didn't you?

12 A. My understanding is once again that
13 we have been directed by the Human Resources
14 Secretariat not to collect specific data on cultural
15 groups.

16 Q. So, in other words, MNR didn't have
17 any database on native use of land for hunting, fishing
18 trapping; is that correct, sir?

19 A. There is information but if what you
20 are looking for is a comprehensive study -- there is
21 that information in some districts, but I recall again
22 my experience in Moosonee where we specifically
23 undertook a survey to find out native harvest uses for
24 various species across the district, but if you are
25 trying to generate employment figures, for instance, we

1 didn't tabulate those separately.

2 Q. Let's keep it at the provincial
3 level, if we might. I think my questions are fairly
4 straightforward. There was no provincial database with
5 respect to native use of resources; is that correct,
6 sir, a province-wide database?

7 A. Not a comprehensive one, that is
8 correct.

9 Q. I don't want to get picky. Does not
10 comprehensive mean not province-wide, sir?

11 A. Yes.

12 Q. And the reason for the lack of that
13 database is because you were directed by the Ontario
14 Government not to collect that information; is that
15 correct, sir?

16 A. In pulling the report together, for
17 instance, I was trying to get employment figures in the
18 forest industry and I tried inside our own Ministry, I
19 tried inside Treasury, I tried inside the Ontario
20 Native Affairs Directorate and when repeatedly the
21 answer came back: We don't structure our information
22 that way specifically by native, non-native, the best
23 source I could find was No. 28 -- reference 28 and when
24 I pursued the reason why those databases don't exist I
25 was told that the Human Resources Secretariat guarded

1 Ministries against collecting information that was
2 along racial or cultural lines.

3 Q. So let's do this again very slowly.

4 I believe my question to you was: Was there a
5 province-wide database with respect to native use of
6 resources, hunting, trapping, fishing plus wild rice -
7 I am not sure of what else there is.

8 I believe your response is no and I asked
9 very simply: Did MNR not have this information
10 because it was directed by the Ontario Government not
11 to collect that information?

12 Was MNR directed at some point in time
13 not to obtain information on native use of resources?

14 A. It depends on the type of information
15 you are talking about.

16 Q. I am asking, sir, about resource
17 activity. I didn't talk about employment, I didn't
18 talk about education, I am not talking about anything
19 else, very specifically.

20 A. Define resource activity. Trapping,
21 is that...

22 Q. Trapping, fishing, hunting,
23 commercial fishing, recreational fishing, subsistence
24 fishing, wild rice harvesting, timbering activity,
25 requests for third party agreements. I can draw up a

1 very long list.

2 A. And I am not aware of a database that
3 specifically lists that for natives, but I don't think
4 that the reference to the Human Resources Secretariat
5 could be applied to those types of data.

6 Q. So, therefore, in other words it was
7 not that information was not obtained because the Human
8 Resources Secretariat told you not to obtain that
9 information; is that correct? Why didn't you do it,
10 why didn't MNR obtain that information?

11 A. Well, I think we would be in some
12 trouble if every time a person came into our office and
13 asked us for a licence for something we asked them
14 whether they were native or not. I don't think we
15 could keep a data bank recording those answers.

16 That is not to say we do not have
17 information on native uses of resources. For instance,
18 the results of those people that have...

19 Q. Are those studies here, sir? Are
20 there any studies referenced in this document to
21 support your statement as to native use of the land and
22 resource activity?

23 A. No because I don't believe you will
24 find it all in one report. I would draw your attention
25 to something like the background document for Moosonee

1 District which in, for that piece of real estate, does
2 document native use of resources which I don't think
3 was listed as one of those references, but it was sent
4 to you, I believe, in response to an interrogatory.

5 Q. Are there any other documents which
6 identify native use of resources within the area of the
7 undertaking other than, as you have said, the Moosonee
8 District?

9 A. I believe panel 1 addressed some of
10 the inventory information that was collected as part of
11 the West Pat exercise. I am aware of a consultant
12 report that was prepared for the Cayanna Council that
13 basically recorded native use west of Moosonee District
14 including Fort Severn.

15 Q. So, in other words, there is no
16 province-wide comprehensive database upon which to
17 measure impacts of timber management activity on native
18 communities or native use of the land or resources; is
19 that your evidence? Is that right, sir?

20 A. I am not trying to extend the
21 conclusion out as far as you have, Mr. Hunter. There
22 is no comprehensive database that summarizes native use
23 of resources, that's correct, but whether that means
24 there is not an ability to deal through this process,
25 timber management planning, to deal with the impact on

1 native resource concerns, I think is another question.
2 I I can think it can be dealt with in this process.

3 Q. I didn't ask you that, sir

4 A. I was just clarifying your question.

5 Q. I just asked you whether there was a
6 database on a province-wide basis which would allow for
7 an assessment of impacts; yes or no?

8 A. I am bothered by how general you are
9 trying to put the question and if I can explain once
10 again...

11 THE CHAIRMAN: Well, just hold on, Mr.
12 Kenrick. I think you will have an opportunity. You
13 have had a partial opportunity through direct to state
14 where these questions can be extended to and where they
15 can't.

16 I think Mr. Hunter is entitled, in
17 cross-examination, to ask you a specific question and
18 if the specific question can be answered by a yes or no
19 answer because it is a factual situation, I think you
20 should confine your answers to the yes or no.

21 The question was: Is there a
22 province-wide database that summarizes native use of
23 resources and that should -- there either is or there
24 isn't.

25 MR. KENRICK: I believe I have answered

1 that several times. No, there is not.

2 THE CHAIRMAN: Okay.

3 MR. HUNTER: Q. Other than the Moosonee
4 District Land Use Guideline, to your knowledge is there
5 any other database which would identify native uses to
6 establish a baseline for measuring impacts on native
7 activity?

8 MR. KENRICK: A. I am aware of data that
9 exists as part of the trap line management program that
10 shows the numbers of pelts harvested by natives with
11 native licences for various years.

12 Q. Is that information in your
13 reference, sir?

14 A. No, it is not, it is a computer
15 printout.

16 Q. Are there any other sources of
17 information other than trapping?

18 A. I believe there would be creel census
19 that would report native harvest or lake-specific
20 information that had been collected on native harvest
21 on a specific lake.

22 I am not sure which lakes -- like, it
23 wouldn't be all lakes, but I remember when I was in
24 Temagami we were recording information on the harvest
25 coming out of the lake and we attempted to get,

1 information from the Bear Island Band. I believe
2 similar approaches have been used in the northwest on
3 some lakes. But, again, whether it would be
4 comprehensive across the province, I doubt it, it would
5 be lake-specific.

6 Q. I draw your attention to page 75 of
7 your witness statement, please. At point 9.0 - and I
8 am trying, Mr. Kenrick, to avoid going through some of
9 the cross which you did go through with Mr. Colborne
10 and some of your previous comments - so if you allow me
11 a statement, and if I'm incorrect you may correct me,
12 obviously.

13 I believe that the items in this section
14 1 through 10 -- beyond 10, form the basis for
15 information which is obtained on stakeholders by your
16 Ministry, well that is how you have categorized it; is
17 that correct?

18 MR. FREIDIN: The question is whether it
19 is the basis of the information obtained on
20 stakeholders, or the manner in which it is categorized
21 in there?

22 MR. HUNTER: It is the categorization of
23 the areas upon which information is obtained. As I
24 understand it, it starts at introduction and it
25 identifies the area of the undertaking, presents

1 information and then breaks down into various
2 categories, subject matters land resources and
3 identifies fundamental information or basic
4 information.

5 MR. KENRICK: A. Correct.

6 Q. 9.0 talks about infrastructure and if
7 I understand that correctly, that is the basis for some
8 specificity with respect to the obtaining of
9 information about Indian people; is that correct, sir?

10 A. Correct.

11 Q. By which you have referenced to
12 Indian reserves?

13 A. That's correct there.

14 Q. I understand the logic as to why that
15 is in there. Is that correct?

16 A. It is in there largely because of the
17 sentence that follows that, our infrastructure tends to
18 exist where our people exist. So the section that
19 follows was an attempt to describe the people.

20 Q. Are you aware that there are
21 communities in NAN that are not reserves?

22 A. Yes.

23 Q. Are those communities excluded from
24 this categorization of infrastructure?

25 A. They were not intended to be. When I

1 start discussing native people, I believe that includes
2 statistics on people that live on other than reserves.

3 Q. But pursuant to that categorization
4 under 9.0 non-reserve communities are not included; is
5 that correct?

6 A. They are aren't listed there under
7 9.0, that's correct.

8 Q. Perhaps you can help me. Are you
9 aware that in 1985 -- the 1985 Class EA Document that
10 the area of the undertaking was north of the present
11 boundary and I believe would have included Moosonee. I
12 may be wrong by a few miles which is essentially the
13 52nd parallel. Are you aware of why that line was
14 moved southward in the 1987 Class EA?

15 MR. FREIDIN: Mr. Chairman, this
16 information was provided in Panel No. 1 by Mr. Douglas.
17 Specifically a question was specifically asked by Mr.
18 Hunter of Mr. Douglas in that area I don't know why we
19 are repeating that line of questioning.

20 MR. HUNTER: Well, Mr. Chairman, I am
21 afraid I will have to adjourn and get my copy of my
22 transcript, because if memory serves me correctly at
23 that time I requested information from MNR on that
24 point and I believe that Mr. Freidin undertook to
25 provide information on FMUs north of the area of the

1 undertaking and that information has not been provided.

2 THE CHAIRMAN: Well, in order to
3 determine whether that is so, Mr. Hunter, we would all
4 have to go back to the transcript.

5 MR. HUNTER: Well, I don't -- I see
6 absolutely nothing wrong with examining any witness
7 brought forward by MNR on any material issue that deals
8 with the Class Assessment and its effect on the
9 environment and the fact that I may or may not have
10 cross-examined sufficiently Mr. Monzon and Mr. Douglas
11 has nothing whatsoever to do with whether I can
12 cross-examine Mr. Kenrick.

13 THE CHAIRMAN: That would appear to be a
14 proper interpretation of your rights in
15 cross-examination.

16 MR. HUNTER: Q. Mr. Kenrick, are you
17 aware of the fact that the area of the undertaking was
18 amended between 1975 and 1987 documents?

19 MR. KENRICK: A. That is my
20 understanding, yes. I am aware.

21 Q. Are you aware as to why that
22 amendment took place?

23 A. My understanding, having read the
24 transcript from Panel 1 that Mr. Douglas and Mr. Monzon
25 gave, was that it was specifically so that there would

1 not be a constraining effect, if you will, of EA on our
2 ability to deal with native requests for some logging
3 opportunities.

4 I believe, I don't mean to conflict with
5 the first statement. That is paraphrasing it, but I
6 believe that is what it said.

7 Q. So in that instance treaty issues
8 were not a concern. Why are treaty issues not a
9 concern north of the present area of the undertaking;
10 that is native access to timbering and presumably
11 treaty concerns are an issue within the area of the
12 undertaking?

13 A. I don't see where treaty concerns
14 have a bearing one way or another on the answer to the
15 question you asked a minute ago.

16 Q. With respect to amending the area of
17 the undertaking?

18 A. Correct.

19 Q. So, therefore, you adopt the evidence
20 as given by Mr. Douglas and Mr. Monzon with respect to
21 why the area of the undertaking was amended; is that
22 correct, sir?

23 A. Yes, I do.

24 Q. Thank you.

25 MR. HUNTER: Now, I am going to be

1 referring to the transcript, Mr. Chairman, at pages
2 7187 if I can find it.

3 Q. Mr. Kenrick, I want to relate to you
4 three statements that Mr. Freidin made. The first is
5 on 7187 -- I am sorry I apologize, 7186 starting at line
6 19.

7 "Mr. Chairman, the evidence of Mr.
8 Kenrick, sort of the first part of this
9 panel's evidence will be directed to
10 comply in part with the requirement on
11 the proponent."

12 Then he goes on to describe that there
13 will be additional panels and on page 7187, and this is
14 really the focus of my comment, starting at line 22:

15 "The panel will describe the
16 interrelationship between the physical
17 environment..."

18 And this is Mr. Kenrick's evidence:
19 "...the interrelationship between
20 the physical environment of Ontario and
21 how those parts of the environment are
22 used and valued."

23 So you agree that that is the evidence
24 that you will be giving; is that correct?

25 MR. KENRICK: A. That's correct.

1 Q. And then we go down to 7188. On page
2 7188, at line 19 Mr. Freidin says:

3 "And what I am referring to, Mr.
4 Chairman, is the description of the users
5 of the resource as stakeholders. You may
6 recall my opening remarks indicating that
7 the effect on the environment would be
8 described by referring to various
9 stakeholders."

10 And that is also what you are going to
11 give evidence on; is that correct, sir?

12 A. Yes, describing the users.

13 Q. And then on page 7191 Mr. Freidin
14 states:

15 "So Mr. Kenrick will be describing
16 stakeholders and how in fact they relate
17 to the physical environment."

18 So that is also part of your evidence; is
19 that correct, sir?

20 A. Stakeholders in a general sense, yes.

21 Q. Just out of curiosity where does that
22 term come from, stakeholders?

23 A. I believe again that that was
24 addressed in Panel 1. The concept has evolved over
25 time. I think the previous term might have been

1 clients. Stakeholders was I think chosen as an
2 expression of those people that have an interest in the
3 resource or resource management and had less of a
4 ownership, if you will, connotation than client did.

5 Q. So going back to those three
6 statements, do I understand that your evidence will
7 generally describe the effects of timbering activity on
8 the environment as such activities affect stakeholders?

9 You are not giving evidence with respect
10 to physical impact, are you?

11 A. My evidence does not deal with the
12 impact part of it. What it does is describe the
13 environment generally as an overview. Other panels
14 will talk about the impact of timber management
15 activities on portions of that environment.

16 Q. Well, let me go back again, 7188.
17 "You may recall my opening remarks
18 indicating that the effect on the
19 environment would be described by
20 referring to various stakeholders."

21 And you said you would give evidence with
22 respect to it. I can only interpret that to mean that
23 your evidence with respect to the effect on the
24 environment is with respect to the effect on the
25 stakeholder; is that correct?

1 A. No. As I go back to the documents
2 that you have referenced there, I believe at the bottom
3 of page 7186 it talks about my witness statement
4 describing the environment. The word impact is not
5 there.

6 Q. So you are not giving any evidence in
7 relationship to impacts on environment or on
8 stakeholders. 7188:

9 "So Mr. Kenrick will be describing
10 stakeholders and how in fact they relate
11 to the physical environment."

12 A. In a general sense how they use, if
13 you will, pieces of the environment. The use that
14 fishermen put or make of fish, the use that trappers
15 make of furbearers. That was all that was intended to
16 do, the word as they relate to.

17 Q. Isn't it correct, sir, that for the
18 purposes of your evidence the environment is a
19 stakeholder, that is how you are defining the
20 environment? The effect on the environment would be
21 described by referring to various stakeholders.

22 Your use...

23 A. Are you quoting from somewhere there?

24 Q. Yes, I am quoting from 7188 and I am
25 trying to integrate or understand three statements made

1 by your counsel as to the nature of the evidence that
2 you will be leading.

3 I am trying to understand as a result of
4 those statements and as a result of your evidence what
5 the relationship is between your evidence and the
6 environment. The only conclusion I can come to is that
7 you are defining the environment or defining the
8 environment in terms solely of the stakeholders.

9 A. Not so. The first half of the report
10 was meant to describe the physical resources of the
11 province excluding the stakeholders. Now, the one
12 exception there is the section on population and I have
13 explained that could have been the lead-in section on
14 Part II under stakeholders which started on page -- if
15 you look on page 99 of my evidence package.

16 Q. Of what, sir?

17 A. The portion of that report preceding
18 page 99 dealt with the general overview of the physical
19 resources of the province.

20 Q. So, therefore, you were presenting
21 evidence on the physical environment?

22 A. That is what I was trying to do.

23 A. From page 99 on, and again the one
24 exception is the population information which is shown
25 under point 9.1 and that was more to make the -- the

1 reason it is there is more to make the report flow than
2 anything else.

3 From page 99 on was generally talking
4 about the users of those same resources I had described
5 in the first half of the report; the stakeholders, if
6 you will, people with an interest in the resources.

7 Q. Yes.

8 A. Hence, in the first part I talked
9 about -- I described fish to some extent and in the
10 last half of the report I start talking about
11 fishermen. That is the way the report was structured.

12 Q. But you are not providing any
13 information or analysis which would help this Board at
14 the general level to understand how the impacts on the
15 physical environment are to be analyzed, understood or
16 measured?

17 THE CHAIRMAN: The impacts of what, Mr.
18 Hunter?

19 MR. HUNTER: Of timbering activity.

20 THE CHAIRMAN: The four activities?

21 MR. HUNTER: Yes, sir.

22 MR. KENRICK: No, subsequent panels will
23 deal with the topic of impacts and how the Ministry,
24 through its processes, mitigates those impacts.
25 That's correct.

1 MR. HUNTER: Q. Well, correct me if I am
2 wrong, but I thought you were here to establish a
3 general overview, it is called the Environment
4 Affected. You have described the environment, there is
5 a presumption that it is affected by timbering
6 activity. I am not asking you any specific questions
7 about what is being affected, I am simply saying - and
8 I think it is a reasonable assumption given:

9 "The evidence of Mr. Kenrick will also
10 describe the framework which will be used
11 by the panels describing the specific
12 timber management activities of access,
13 harvest, renewal and maintenance. He
14 will provide the framework to be used by
15 those panels in describing the activities
16 when we describe potential environmental
17 effects at the management unit level."

18 What is the relationship between your
19 evidence and what happens on the ground? What is the
20 relationship analytically between your evidence and how
21 the panels are going to deal with subsequent evidence
22 in 7, 8, 9 and 15? Is there any relationship?

23 A. I am giving an overview, if you will,
24 an introduction to Panel 7. It is descriptive, it
25 deals with describing the environment of Ontario.

1 Subsequent panels will deal with the effects of timber
2 activities on that environment. My Panel 6 does not
3 deal with the impacts.

4 Q. So, therefore then, sir, there is no
5 relationship between your evidence and the evidence in
6 the subsequent panels because those panels are dealing
7 with impacts and your panel does not; is that correct?

8 A. I believe there is an
9 interrelationship. I am setting, if you will, a large
10 snapshot of the province. That was the intent with the
11 overview.

12 People will then talk about -- subsequent
13 panels will take that one more step and will then deal
14 with some of the components that I have introduced in
15 more detail.

16 Further panels after that as they deal
17 with aspects of access, harvest, renewal and
18 maintenance will take some of those same descriptive
19 things and talk about the impacts of access, harvest,
20 renewal and maintenance on some of those resources.

21 It is like building blocks, if you will,
22 and from that perspective I think there is a linkage.
23 But as I am doing an overview for the descriptive part
24 of the environment, I am not doing an overview of
25 possible impacts.

1 Q. Well, I am having problems with
2 words.

3 "You may recall my opening remarks
4 indicating that the effect on the
5 environment would be described by
6 referring to various stakeholders.":

7 And that is how Mr. Freidin introduced
8 your evidence.

9 Now, the clear words to me, sir, suggest
10 that your evidence has something to do with timbering
11 activity and its effect on the environment as defined
12 by stakeholders and that, therefore, you are
13 purportedly dealing with impacts insofar as they relate
14 to stakeholders.

15 A. Sir, if the quotes you gave me on
16 pages 7186 through 7189 --

17 Q. 7188, sir, and 7189.

18 A. I don't see a statement there that
19 says I will be discussing impacts. To describe the
20 environment affected, is the quote that you gave me on
21 7186 line 23.

22 Q. No, 7188.

23 "This panel will describe the
24 interrelationships..."

25 7187, let's do it again.

1 "This panel will describe the
2 interrelationships between the physical
3 environment - and this is Mr. Kenrick's
4 evidence - the interrelationships between
5 the physical environment of Ontario
6 and how those parts of the environment
7 are used and valued. So Mr. Kenrick..."

8 I am jumping to 7189:

9 "Mr. Kenrick will be describing
10 stakeholders and how in fact they relate
11 to the physical environment and again it
12 will be a framework which will be used in
13 subsequent panels."

14 THE CHAIRMAN: Mr. Hunter, with respect,
15 where are you going in terms of trying to understand
16 where Mr. Kenrick is coming from in terms of his Panel
17 6 evidence?

18 It appears to me that Mr. Kenrick has
19 stated that he is providing an overview and he is
20 providing a description of the physical environment of
21 the province and he is also providing a description of
22 the stakeholders who utilize that environment and
23 subsequent panels will deal with the impacts of
24 specific activities related to timber management such
25 as the four activities you have been discussing and how

1 those impacts relate to the stakeholders or users of
2 the environment including, amongst the stakeholders,
3 all interest groups which would include, of course,
4 native groups as well.

5 Now, beyond that he has indicated, I
6 think in a variety of ways, that his panel is not
7 giving evidence on impacts. The evidence on impacts
8 will be given not only in Panel 7 but in a variety of
9 panels, subsequent panels to that.

10 MR. HUNTER: I think, Mr. Chairman, I can
11 only respond in the following way: I am not asking Mr.
12 Kenrick to identify, I am asking him how will he
13 analyze -- in other words, what is the framework, the
14 general framework that MNR is presenting that will show
15 how impacts are to be assessed?

16 THE CHAIRMAN: Well, I do not think -
17 unless I am wrong - Mr. Kenrick's panel is going to
18 deal with that question, that will be dealt with by
19 subsequent panels.

20 MR. HUNTER: Well then, I guess I am
21 wrong because I interpreted Mr. Freidin's comments
22 which introduced Mr. Kenrick's evidence as essentially
23 laying out a framework for doing just that.

24 THE CHAIRMAN: I think perhaps it was a
25 poor chose of words on the part of Mr. Freidin in the

1 sense that he might have used that Mr. Kenrick's Panel
2 will be laying out the basic descriptive background
3 information which will be utilized by subsequent panels
4 in dealing with the impacts at some future time.

5 I am not sure -- I am not trying to put
6 words in your mouth, Mr. Freidin.

7 MR. FREIDIN: Really, if you want to
8 substitute the word categorize for stakeholders I think
9 that indicates what my submissions were all about.

10 Mr. Kenrick has taken a part of the
11 socio -- part of the environment - only a part of it -
12 a part of the socio-economic environment and has used a
13 certain way of organizing the evidence in relation to
14 that so that it could be better understood and more
15 logically presented.

16 For that purpose, the categories of
17 stakeholders was the framework. That is what...

18 THE CHAIRMAN: But the evidence with
19 respect to the impacts generated by the activities will
20 be dealt with specifically by later panels? That is
21 clear; is it not?

22 MR. FREIDIN: That is clear. And there
23 is some relationship. Mr. Kenrick gave you examples of
24 the sorts of issues.

25 THE CHAIRMAN: I hope the relationship

1 will be that with later panels we do not have to go
2 back to get all of the overview generalized descriptive
3 data which this panel has already given. Presumably
4 later panels will be able to start from that point and
5 deal specifically with the impacts of the activity.

6 So, you know, Mr. Hunter there may be a
7 relationship there in that the background data for
8 describing the impacts or dealing with the impacts on
9 various users and stakeholders may rely to some extent
10 on some of the data provided by Panel 6 and hopefully
11 will not have to be repeated at that stage, but I think
12 it is clear to the Board that this panel will not be
13 dealing in any way with the impacts arising from those
14 activities.

15 MR. HUNTER: Mr. Chairman, I am just
16 curious. How long did you want to proceed, sir?

17 THE CHAIRMAN: We were hoping not to go
18 much beyond a quarter to or six o'clock, a convenient
19 spot for you to break for the day.

20 MR. HUNTER: Well, perhaps I will just
21 carry on with a few more questions and then...

22 THE CHAIRMAN: I think, as well --

23 MR. HUNTER: I am not going to finish
24 with Mr. Kenrick.

25 THE CHAIRMAN: We are not suggesting that

1 you will tonight.

2 MR. FREIDIN: Mr. Chairman, I would like
3 to have a few moments so that Ms. Murphy can address
4 the Board on site visits.

5 THE CHAIRMAN: Okay. Well, why don't we
6 continue, Mr. Hunter, with your questions until you
7 find a convenient spot to break for the day with Mr.
8 Kenrick and then we will spend a few moments with Ms.
9 Murphy on the site visit question.

10 MR. HUNTER: Thank you.

11 Q. Mr. Kenrick, perhaps you could turn
12 to -- do you have the interrogatory list?

13 A. Yes, yes I do.

14 Q. Perhaps you could go to Question 12
15 which cross-references --

16 THE CHAIRMAN: Are these your
17 interrogatories?

18 MR. HUNTER: That's correct, sir.

19 THE CHAIRMAN: Have you entered them?

20 MR. HUNTER: No, I have not entered them
21 as an exhibit. I didn't have time to get them xeroxed
22 so I was just going to read the question into the
23 record.

24 THE CHAIRMAN: Okay, thank you.

25 MR. HUNTER: Q. Perhaps, Mr. Kenrick, I

1 can begin by asking: Do you adopt this statement as
2 yours; in other words, is this your evidence as
3 distinct from MNR's?

4 MR. KENRICK: A. This is Question 12 the
5 reference on page 78: "It is stated that...?"

6 Q. That's correct, sir.

7 A. Yes, it is.

8 Q. Thank you. I will read Question 12
9 if I might into the record, sir, and I apologize.

10 "On page 78..."

11 Meaning 78 of the witness statement:

12 "...it is stated that while farming,
13 fishing, hunting and trapping exist their
14 overall contribution to the economy is
15 small. Their contributions in some local
16 communities' economies can however be
17 significant."

18 And our question was: Identify the local
19 communities referred to in this statement. On what
20 base or basis is the significance of the contribution
21 of these four activities to be for a community
22 determined?

23 The answer was:

24 Examples: Farming - Earlton and New
25 Liskeard. Fishing - Rocky Bay Indian Band, Fort

1 William Indian Band, Round Lake Indian Band, Sandy Lake
2 Indian Band, McDowell Indian Band, and White Fish Bay
3 Indian Band. Hunting - all coastal communities on
4 Hudson's Bay coast. Trapping - Fort Severn.

5 In communities such as these there is a
6 significant amount of resource-related income as
7 compared to other income from other sources.

8 In addition, fishing and hunting as a
9 domestic food source is particularly important in far
10 northern Indian communities. The question is simply
11 this -- one of the questions:

12 Within the area of the undertaking, as it
13 affects Nishnawbe-Aski Nation, are there any other
14 communities which fall into the examples that you have
15 identified under fishing? For example, are there any
16 other NAN communities within the area of the
17 undertaking in which fishing is of significance to the
18 local economy?

19 MR. KENRICK: A. I suspect there are,
20 but I would ask you to define significant, put it in
21 context where this reference came from to start with.

22 It followed some Stats Canada
23 information, Figure 18 in my evidence package and
24 basically what that did was showed zeros for fishing,
25 hunting and trapping in terms of labour force

1 employment for northern and southern Ontario and what I
2 I was trying to do at this point was to clarify they
3 aren't actually zeros.

4 They are small numbers so they are not
5 captured by Stats Canada information, but in some local
6 economies where there may be few alternatives for
7 those -- some of those sources of revenue, they are
8 significant numbers.

9 So I gave some examples of it, but in
10 terms of: Is the list comprehensive, I would say no
11 but then I would challenge you to define significant.
12 Those are the ones that I was aware of where the amount
13 of revenue that goes into those towns, I will use Fort
14 Severn as an illustration.

15 Fort Severn, my experience in Moosonee
16 District, had the largest fur return of the coastal
17 communities that is why I picked it. There were other
18 communities that had fur returns also but they were
19 less.

20 Q. But with respect to your first
21 point - we will in direct evidence try to deal with the
22 word significant, but I would remind you that it was
23 your words not mine, it is your evidence not mine.

24 Is your evidence, sir, that there are no
25 NAN communities within the area of the undertaking

1 where fishing, hunting and trapping provide a
2 significant contribution to the local economy?

3 If you don't know then just say so?

4 A. No, I don't think that is valid. The
5 communities I have picked under fishing, for instance.
6 I got a list from two regions of the value of the
7 commercial fishery in any one of a couple of years and
8 the communities are listed there are the ones where the
9 dollar value of that harvest was greater than \$10,000.

10 Q. Mr. Kenrick, there is a separate
11 question on commerical fishing. I am asking in
12 relationship to this specific question, do you have any
13 information as to whether or not there are NAN
14 communities within the area of the undertaking where
15 there is a significant contribution on the basis of
16 resource activity?

17 Given the fact that you don't have a
18 database, I am not even sure how you can even begin to
19 assume to answer any of these questions.

20 A. Well, that's not correct. I know
21 again from my Moosonee experience. I could probably
22 list all of the communities along the Hudson Bay coast
23 under trapping, hunting and fishing.

24 Q. You are outside the area of the
25 undertaking.

1 A. That's correct.

2 Q. Yes. I am asking about areas inside
3 the area of the undertaking.

4 A. I suspect there are, but I could not
5 list them, sir.

6 Q. With respect to the coastal
7 communities, this resource activity meaning hunting,
8 trapping, fishing -- with respect to the northern
9 communities outside the area of the undertaking, and
10 with reference to the area that you know, is resource
11 activity or traditional activity, does it provide a
12 substantial or significant base to local economies
13 there?

14 A. It provides a significant amount.

15 Q. Thank you. I was going to ask you if
16 you were prepared to give an opinion, but I will back
17 away from it.

18 Let's do this. Perhaps this may be a
19 good point for us to wrap it up, Mr. Chairman. On page
20 109 of your evidence, Question 22 of our
21 interrogatories, sir, at page 109 it is stated:

22 "In some northern native communities
23 it (commercial fishing) is again a source
24 of income for which there are few
25 alternatives. Please identify the

1 northern native communities in the
2 Nishnawbe-Aski Nation where this
3 statement applies."

4 The answer:

5 "Sandy Lake, Round Lake, McDowell and
6 White Fish Bay would fall into this
7 statement."

8 I would simply ask you once again: In
9 the NAN area and within the area of the undertaking are
10 there native communities in which commercial fishing is
11 a source of income for which there are few
12 alternatives?

13 A. The question is: Are there other
14 communities?

15 Q. Yes, within NAN?

16 A. Yes.

17 Q. Within NAN and within the area of the
18 undertaking.

19 A. Again, given that you have left it up
20 to me to define significant.

21 Q. I don't believe, sir, the word
22 significant is there. I'm using your words, sir--

23 A. Mm-hmm.

24 Q. --not mine.

25 A. Repeat your question again.

1 Q. Are there communities within NAN and
2 within the area of the undertaking in which commercial
3 fishing is a source of income for which there are few
4 alternatives?

5 A. In the accessible portion of the NAN
6 area, the area basically of road access, if you will,
7 so within forest management units I think there would
8 be more alternatives for sources of incomes to
9 commercial fishing than there would be in the far
10 north.

11 Nonetheless, in some local communities
12 commercial fishing may well generate a specific piece
13 of revenue or benefit to the communities that would be
14 hard to replace, but there is probably more
15 alternatives out there.

16 MR. HUNTER: Fine, thank you.

17 I am in your hands, Mr. Chairman. We
18 could continue or if you wish to...

19 THE CHAIRMAN: Well, I think we will
20 adjourn as far as the evidence goes at this point, Mr.
21 Hunter. We would ask Ms. Murphy to address the Board
22 on the issue concerning the site visit.

23 I take it this will be brief, Mr.
24 Freidin?

25 MS. MURPHY: Yes, indeed. I have some of

1 these documents for the Board (handed).

2 Let me just take one more minute to put
3 up one more map, Mr. Chairman.

4 MR. HUNTER: Mr. Chairman, it is not that
5 I am not interested, but this affects other interests
6 --

7 THE CHAIRMAN: Very well.

8 MR. HUNTER: Actually I am leaving.

9 THE CHAIRMAN: You can be one of the
10 privileged ones to vacate.

11 MR. HUNTER: To vacate.

12 MS. MURPHY: Mr. Chairman, I really only
13 want to take a couple of minutes of your time to
14 advise...

15 THE CHAIRMAN: Is that microphone on by
16 the way?

17 MS. MURPHY: Yes, I believe it is, but it
18 is not very loud.

19 I would just like to take a couple of
20 minutes to advise that the documentation that was
21 ordered by the Board has been produced. We had a
22 couple of technical difficulties in producing the
23 material, but we did manage to get it completed for
24 today.

25 I should advise you first of all that

1 right in the front of the room here we have got two
2 maps. If I can just refer you to the one on my right,
3 that map is at a scale of 1:600,000 and that map we
4 would refer to as a key map. Our suggestion is that
5 that one would be left in the reading room and that the
6 final decision of the Board with respect to the visit
7 would be indicated on that map for general information.

8 THE CHAIRMAN: So that is the one that is
9 depicted as southern Ontario; is that correct?

10 MS. MURPHY: That's right. And it has a
11 key and a legend and it explains Proposal for
12 Environmental Assessment Board Site Visit, November,
13 1988.

14 And then if I can direct your attention
15 to the second map on my left, that map is at a scale of
16 1:200,000. That one also has the key on it, Proposal
17 for Environmental Assessment Board Site Visit,
18 November, 1988. That particular map has been
19 photocopied and provided to the people who are here
20 today and will be provided to the other parties
21 receiving full-time correspondence.

22 On that map it is possible to follow with
23 respect to looking at the numbers, the numbered stop
24 locations that are proposed in the Ministry's proposal
25 with, I think, one exception. I think I found a typo

1 and perhaps I had better advise you now.

2 Oh, all right. I am wrong. Mr. Kennedy
3 advises me that although the group numbers on the
4 suggestion go 1, 3, 2 that apparently is accurate and
5 does follow those numbers that are on the proposal.

6 Now, the other document then that has
7 been handed out is a proposed itinerary for the site
8 visit. This document has been set up in a format
9 similar to the one that was given to you and to other
10 parties on the last visit. It sets out a series of
11 suggested stop locations with some detailed information
12 about each one of those proposed stops. I would
13 only -- and as you can tell, my friends haven't had an
14 opportunity to review this but I only wanted to bring
15 your attention to two things.

16 First of all, you will note that on page
17 8 we have a proposal for two options. Just so that it
18 is easier for you to read it when you go through it
19 there is a 4A and a 4B. So that is one that -- in our
20 proposal has two options.

21 There is a second point at which there
22 are two options. If you look at page 14, the
23 Ministry's proposal is that the Board would visit a
24 mill and two of them are suggested and that would be
25 again an option not a suggestion that you visit two.

1 What we have done in this proposal is to
2 put forward a proposed route for the visit and one
3 thing that I would like to mention that perhaps isn't
4 written in the term is that our proposal is that the
5 visit begin by having the parties who wish to attend
6 arrive in Ottawa and that the Ministry would provide
7 all further transportation through the rest of the
8 visit and on to Toronto at the end of the visit.

9 That being the case, it is our request
10 that the parties who wish to attend be prepared to
11 arrive at the Ottawa airport on that Monday morning
12 fairly early, if possible before ten o'clock in the
13 morning. As is noted in the material, we are dealing
14 with a time of year where we have restricted daylight
15 hours and in order to make good use of the time it is
16 hoped that we would be able to start each of these days
17 fairly early. So that may be one thing that you might
18 like to put your mind to, Mr. Chairman.

19 In any event, this proposal would have
20 the Ministry pick the people up at the Ottawa airport
21 and then undertake the travel arrangements for the
22 entire rest of the visit and there are two options for
23 return you will notice when you read the material and
24 those are written out on page 3.

25 Another thing that is important about

1 this particular proposal, and it is different, is that
2 you will find that quite a substantially higher
3 proportion of the visit is suggested to be made by
4 ground transportation and the major reason for this is
5 that this particular forest area and the kinds of
6 activities that you would see there are best seen from
7 the ground.

8 At the same time, what the proposal
9 suggests is that there be on Day 2 plans to do some air
10 travel. We are going to have some difficulty in
11 deciding exactly which way we might undertake any air
12 travel at this time because of some potential concerns
13 about numbers of people, but in any event it is
14 suggested that on the second day we plan some air
15 travel and, as you will note from the map that has been
16 provided, the proposed route for the flight is marked
17 in a hatched line and what that proposal would have is
18 that the flight portion of the visit would cover part
19 of the area that had been seen previously from the
20 ground so that it would be possible to view these areas
21 from the ground and subsequently view them from the
22 air.

23 And that the second part of that flight
24 would view from the air areas that you would see
25 subsequently on the ground. That flight, of course,

1 also would take you over a number of areas that you
2 wouldn't have an opportunity to see from the ground.

3 Now, we have provided a good deal of
4 material and information in the proposal for people. I
5 understood they wanted to have some detail and some
6 factual information and we have put in that material as
7 much as possible.

8 We have also written a letter that goes
9 with that material and we have asked people if they
10 have any inquiries to contact either me or Frank
11 Kennedy or Mr. Jim McCready. Mr. McCready is sitting
12 here beside Mr. Kennedy.

13 Mr. McCready is the forest supervisor in
14 Carleton Place and would be the MNR guide for this site
15 visit and it is our suggestion that we would file Mr.
16 McCready's curriculum vitae at the time that we put
17 together the final itinerary.

18 And one final matter that I did want to
19 raise. In the original Order of the Board, you have
20 asked people to advise us by October 15th if they are
21 intending to send a representative and you have also
22 asked them to advise by November 1st of the names and
23 addresses of those representatives.

24 I would just like to reinforce that it is
25 very important for us to have that information. From

1 some very preliminary discussions with some of the
2 people that are here that indicate that some people
3 would like to send more than one person and it is going
4 to be rather difficult for us to make the kinds of
5 arrangements that have to be made without a fairly
6 clear idea how many people at least we are dealing with
7 by mid-October.

8 THE CHAIRMAN: Well, I think in fairness,
9 when it comes to the air travel portion of the site
10 visit, the parties should really be limited to one
11 representative per party because it becomes very
12 expensive for the Ministry, it cuts down the options if
13 helicopters are to be used, et cetera.

14 I think if some of the parties want to
15 send more than one representative on the ground
16 portion, that may not pose as many problems. I am sure
17 you could arrange for a larger sized vehicle without
18 too much difficulty within reason. We do not expect
19 one of the groups to send 15 representatives around,
20 but certainly we could accommodate more than one on the
21 ground portion.

22 MS. MURPHY: That was mainly our concern
23 was the air portion of the trip, of course. We think
24 we can certainly handle a few more people on the
25 ground. Mr. Kennedy suggests that perhaps if it meant

1 splitting people up, it may be that there will be some
2 things on the ground that the people who are left
3 behind would be interested in seeing in any event.

4 But it is just in order to help us finish
5 the planning and so forth, those numbers are very
6 importance to us.

7 THE CHAIRMAN: And I think the Board
8 would like to see the dates adhered to in order that
9 you can get on with that kind of planning.

10 MS. MURPHY: That would be very helpful.
11 Those are my submissions.

12 THE CHAIRMAN: Thank you.

13 Does anybody else have anything to say on
14 the submissions at this time?

15 Very well. Ladies and gentlemen, we are
16 going to adjourn for the day. I would like to ask
17 everybody to attend tomorrow morning for the session at
18 9:00 a.m. rather than 9:30. The reason for that is is
19 that the Board will be breaking for the lunch hour
20 between 12:00 and 2:00 rather than 12:30 and 2:00. We
21 can make up the extra half hour in the morning. Thank
22 you.

23 Would somebody undertake to speak to Mr.
24 Hunter about the earlier start so we are not all here
25 without him? Thank you.

1 MS. PAWLOWSKI: Thank you, I will tell
2 him.

3 THE CHAIRMAN: Thank you. We will
4 adjourn until tomorrow at 9:00 a.m.

5 ---Whereupon the hearing adjourned at 6:05 p.m., to
6 reconvene on Tuesday, September 15th, 1988, commencing
7 at 9:00 a.m.

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